{deleted text} shows text that was in SB0077 but was deleted in SB0077S01.

Inserted text shows text that was not in SB0077 but was inserted into SB0077S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

(SALES TAXSEXATO I DEION IMPORTAGE AT JONNS THE following substitute bill:

ELECTRIC ENERGY STORAGE TAX CREDIT

2020 GENERAL SESSION STATE OF UTAH

Chief Sponsor: Derek L. Kitchen

| House | e Sponsor | • |
|-------|-----------|---|
| | | |

LONG TITLE

General Description:

This bill {creates a sales and use tax exemption for an electric} enacts a corporate and individual income tax credit for the purchase of an electric energy storage asset.

Highlighted Provisions:

This bill:

- defines <u>terms</u>;
- <u>enacts a nonrefundable corporate and individual income tax credit for the purchase</u>
 <u>of an electric energy storage asset;</u>
- \{\text{creates a sales and use tax exemption for}\}\text{provides for apportionment of the individual income tax credit for the purchase of an electric energy storage asset}\}\;\text{used for residential, commercial, or industrial purposes}\}\;\text{}; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides {a special effective date} retrospective operation.

Utah Code Sections Affected:

AMENDS:

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\{59-12-102\}59-10-1002.2, as last amended by Laws of Utah \{2019\}2016, \{Chapters 325, 481, and 486\}
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59-12-104, as last amended by Laws of Utah 2019, Chapters 136 and 486} Chapter 263 ENACTS:

59-7-625, Utah Code Annotated 1953

59-10-1041, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **59-7-625** is enacted to read:

59-7-625. Nonrefundable tax credit related to electric energy storage.

- (1) As used in this section:
- (a) "Commercial use" means the same as that term is defined in Section 59-12-102.
- (b) "Electric energy storage asset" means property that is interconnected to the electrical grid and is designed to:
 - (i) receive electrical energy;
 - (ii) store electrical energy as another energy form; and
- (iii) (A) convert electrical energy described in Subsection (1)(b)(ii) back to electricity and deliver the electricity for sale; or
- (B) use electrical energy described in Subsection (1)(b)(ii) to provide reliability or economic benefits to the grid.
 - (c) "Industrial use" means the same as that term is defined in Section 59-12-102.
 - (d) "Office" means the Office of Energy Development created in Section 63M-4-401.
- (e) "Qualified purchase" means the purchase of an electric energy storage asset for commercial use, industrial use, or residential use.
 - (f) "Qualified taxpayer" means a taxpayer that:

- (i) makes a qualified purchase; and
- (ii) receives a tax credit certificate from the office.
- (g) "Residential use" means the same as that term is defined in Section 59-12-102.
- (h) "Tax credit certificate" means a certificate issued by the office in accordance with Subsection (4)(b).
- (2) Subject to the other provisions of this section, a qualified taxpayer may claim a nonrefundable tax credit against tax otherwise due under this chapter or Chapter 8, Gross

 Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax

 Act, in an amount equal to the lesser of:
 - (a) if the qualified purchase is for residential use:
 - (i) an amount equal to 25% of the price of the qualified purchase; or
 - (ii) \$5,000; or
 - (b) if the qualified purchase is for commercial use or industrial use:
 - (i) an amount equal to 10% of the price of the qualified purchase; or
 - (ii) \$50,000.
- (3) The aggregate annual total amount of tax credits represented by tax credit certificates that the office issues under this section and Section 59-10-1041 may not exceed \$1,000,000.
- (4) (a) (i) To claim a tax credit under this section a taxpayer shall, using a form prescribed by the office:
 - (A) submit to the office an application for the tax credit; and
 - (B) provide the office proof of a qualified purchase.
- (ii) Upon receipt of the information described in Subsection (4)(a)(i), the office shall provide the taxpayer a written statement acknowledging receipt.
 - (b) If the office determines that the taxpayer qualifies for the tax credit, the office shall:
- (i) determine the amount of the tax credit the taxpayer is allowed under this section; and
 - (ii) provide the taxpayer with a written tax credit certificate that:
 - (A) states that the taxpayer qualifies for the tax credit; and
 - (B) shows the amount of the tax credit for which the taxpayer qualifies.
 - (c) At least annually, the office shall submit to the commission a list of each qualified

taxpayer to whom the office issued a tax credit certificate and the amount of the tax credit.

- (5) (a) The tax credit described in this section is allowed only for the taxable year in which the qualified purchase occurs.
 - (b) A qualified taxpayer may not:
 - (i) assign a tax credit or tax credit certificate under this section to another person; or
 - (ii) claim more than one tax credit under this section for each qualified purchase.
- (6) If the qualified taxpayer receives a tax credit certificate under this section that allows a tax credit in an amount that exceeds the qualified taxpayer's tax liability under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay

 Corporate Franchise or Income Tax Act, for a taxable year, the qualified taxpayer may carry forward the amount of the tax credit that exceeds the tax liability for a period that does not exceed the next five taxable years.

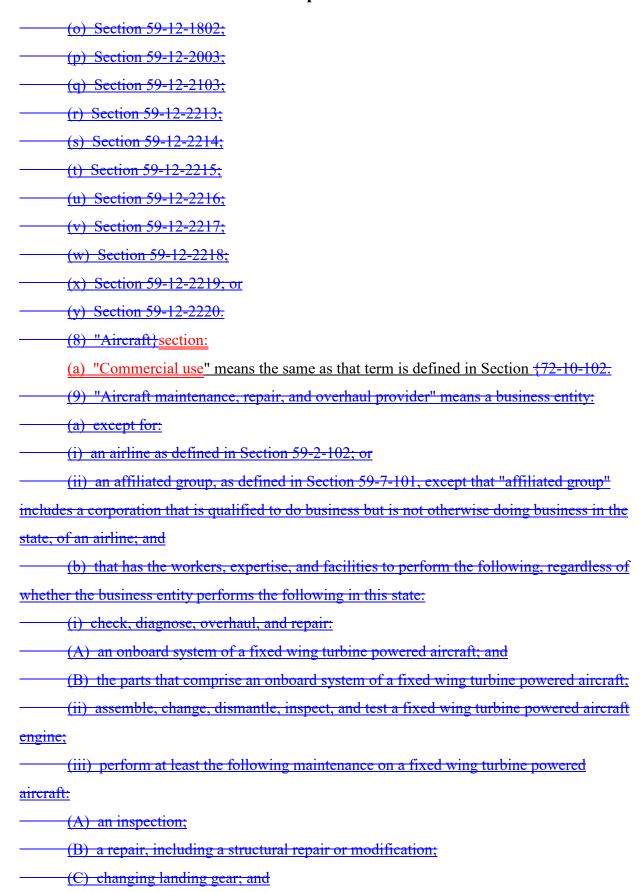
Section 2. Section **59-10-1002.2** is amended to read:

59-10-1002.2. Apportionment of tax credits.

- (1) A nonresident individual or a part-year resident individual that claims a tax credit in accordance with Section 59-10-1017, 59-10-1018, 59-10-1019, 59-10-1022, 59-10-1023, 59-10-1024, [or] 59-10-1028, or {59-10-1028}59-10-1041 may only claim an apportioned amount of the tax credit equal to:
 - (a) for a nonresident individual, the product of:
 - (i) the state income tax percentage for the nonresident individual; and
- (ii) the amount of the tax credit that the nonresident individual would have been allowed to claim but for the apportionment requirements of this section; or
 - (b) for a part-year resident individual, the product of:
 - (i) the state income tax percentage for the part-year resident individual; and
- (ii) the amount of the tax credit that the part-year resident individual would have been allowed to claim but for the apportionment requirements of this section.
- (2) A nonresident estate or trust that claims a tax credit in accordance with Section 59-10-1017, 59-10-1020, 59-10-1022, 59-10-1024, or 59-10-1028 may only claim an apportioned amount of the tax credit equal to the product of:
 - (a) the state income tax percentage for the nonresident estate or trust; and
 - (b) the amount of the tax credit that the nonresident estate or trust would have been

allowed to claim but for the apportionment requirements of this section.

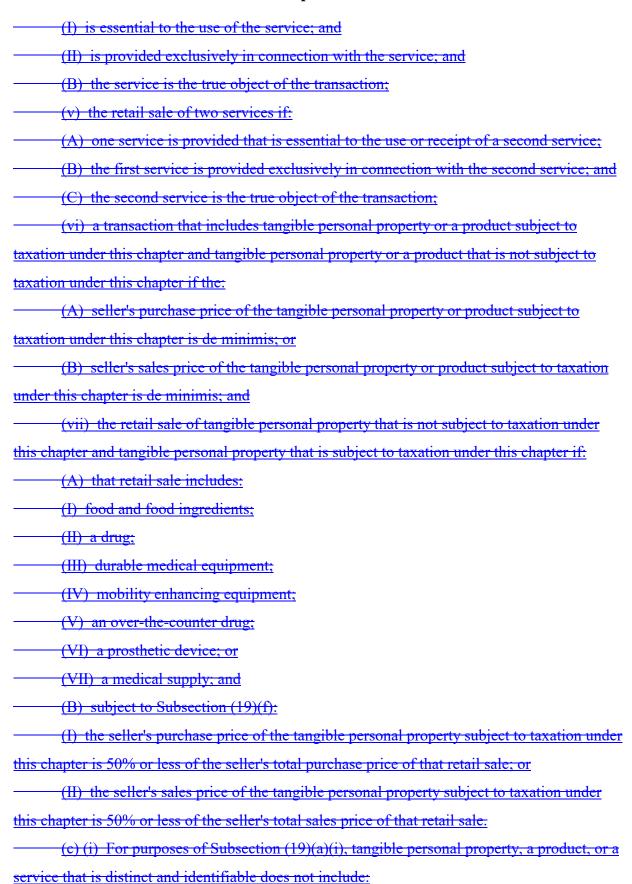
Section $\frac{\{1\}}{2}$. Section $\frac{\{59-12-102\}}{59-10-1041}$ is $\frac{\{amended\}}{amended}$ to read: {59-12-102}59-10-1041.{ Definitions} Nonrefundable tax credit related to electric energy storage. (1) As used in this {chapter: (1) "800 service" means a telecommunications service that: (a) allows a caller to dial a toll-free number without incurring a charge for the call; and (b) is typically marketed: (i) under the name 800 toll-free calling; (ii) under the name 855 toll-free calling; (iii) under the name 866 toll-free calling; (iv) under the name 877 toll-free calling; (v) under the name 888 toll-free calling; or (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission. (2) (a) "900 service" means an inbound toll telecommunications service that: (i) a subscriber purchases; (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber's: (A) prerecorded announcement; or (B) live service; and (iii) is typically marketed: (A) under the name 900 service; or (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal **Communications Commission.** (b) "900 service" does not include a charge for: (i) a collection service a seller of a telecommunications service provides to a subscriber; or (ii) the following a subscriber sells to the subscriber's customer: (A) a product; or (B) a service.

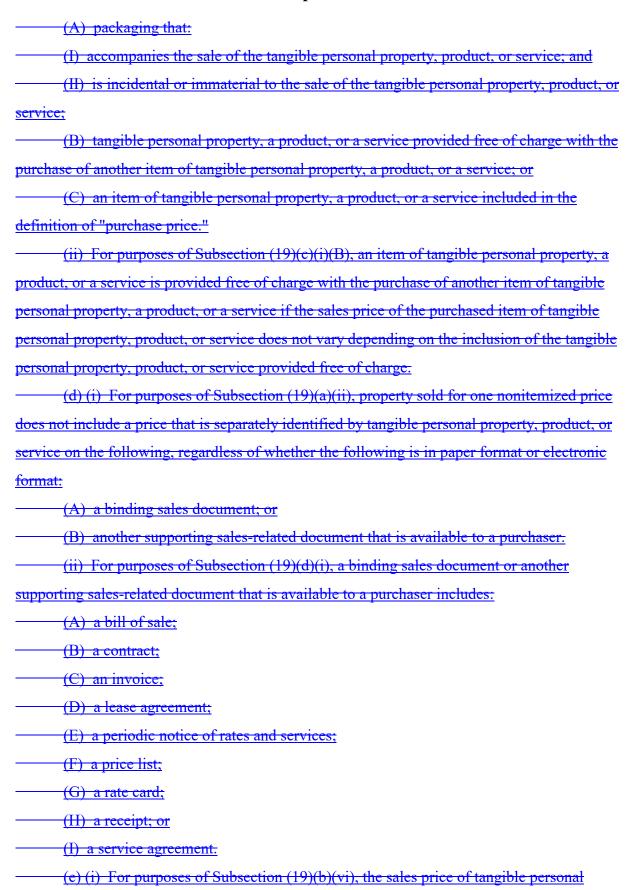


| (D) addressing issues related to an aging fixed wing turbine powered aircraft; |
|--|
| (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and |
| completely apply new paint to the fixed wing turbine powered aircraft; and |
| (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that |
| results in a change in the fixed wing turbine powered aircraft's certification requirements by the |
| authority that certifies the fixed wing turbine powered aircraft. |
| (10) "Alcoholic beverage" means a beverage that: |
| (a) is suitable for human consumption; and |
| (b) contains .5% or more alcohol by volume. |
| (11) "Alternative energy" means: |
| (a) biomass energy; |
| (b) geothermal energy; |
| (c) hydroelectric energy; |
| (d) solar energy; |
| (e) wind energy; or |
| (f) energy that is derived from: |
| (i) coal-to-liquids; |
| (ii) nuclear fuel; |
| (iii) oil-impregnated diatomaceous earth; |
| (iv) oil sands; |
| (v) oil shale; |
| (vi) petroleum coke; or |
| (vii) waste heat from: |
| (A) an industrial facility; or |
| (B) a power station in which an electric generator is driven through a process in which |
| water is heated, turns into steam, and spins a steam turbine. |
| (12) (a) Subject to Subsection (12)(b), "alternative energy electricity production |
| facility" means a facility that: |
| (i) uses alternative energy to produce electricity; and |
| (ii) has a production capacity of two megawatts or greater. |
| (b) A facility is an alternative energy electricity production facility regardless of |

| whether the facility is: |
|--|
| (i) connected to an electric grid; or |
| (ii) located on the premises of an electricity consumer. |
| (13) (a) "Ancillary service" means a service associated with, or incidental to, the |
| provision of telecommunications service. |
| (b) "Ancillary service" includes: |
| (i) a conference bridging service; |
| (ii) a detailed communications billing service; |
| (iii) directory assistance; |
| (iv) a vertical service; or |
| (v) a voice mail service. |
| (14) "Area agency on aging" means the same as that term is defined in Section |
| 62A-3-101. |
| (15) "Assisted amusement device" means an amusement device, skill device, or ride |
| device that is started and stopped by an individual: |
| (a) who is not the purchaser or renter of the right to use or operate the amusement |
| device, skill device, or ride device; and |
| (b) at the direction of the seller of the right to use the amusement device, skill device, |
| or ride device. |
| (16) "Assisted cleaning or washing of tangible personal property" means cleaning or |
| washing of tangible personal property if the cleaning or washing labor is primarily performed |
| by an individual: |
| (a) who is not the purchaser of the cleaning or washing of the tangible personal |
| property; and |
| (b) at the direction of the seller of the cleaning or washing of the tangible personal |
| property. |
| (17) "Authorized carrier" means: |
| (a) in the case of vehicles operated over public highways, the holder of credentials |
| indicating that the vehicle is or will be operated pursuant to both the International Registration |
| Plan and the International Fuel Tax Agreement; |
| (b) in the case of aircraft, the holder of a Federal Aviation Administration operating |

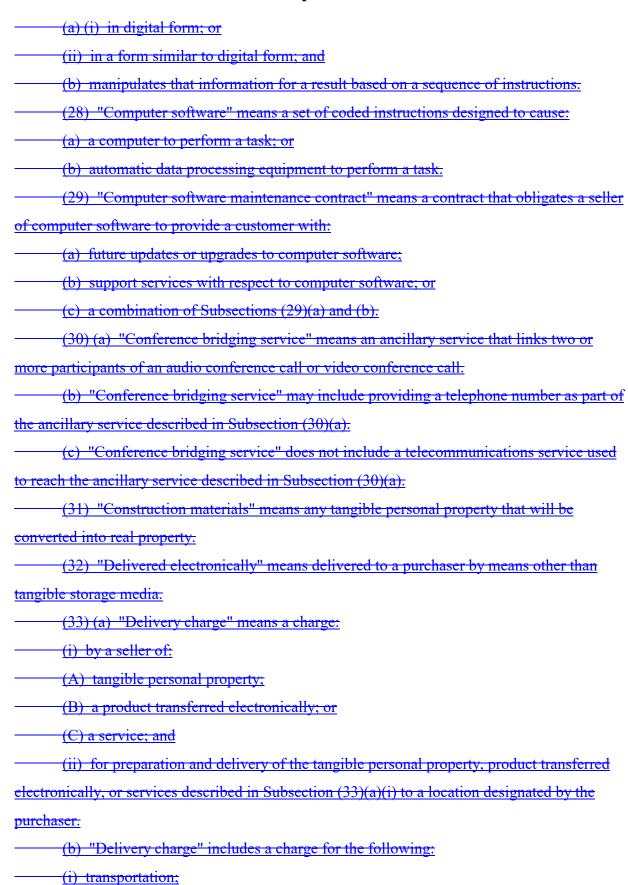
certificate or air carrier's operating certificate; or (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in more than one state. (18) (a) Except as provided in Subsection (18)(b), "biomass energy" means any of the following that is used as the primary source of energy to produce fuel or electricity: (i) material from a plant or tree; or (ii) other organic matter that is available on a renewable basis, including: (A) slash and brush from forests and woodlands; (B) animal waste; (C) waste vegetable oil; (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion of a waste material through a nonincineration, thermal conversion process; (E) aquatic plants; and (F) agricultural products. (b) "Biomass energy" does not include: (i) black liquor; or (ii) treated woods. (19) (a) "Bundled transaction" means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are: (i) distinct and identifiable; and (ii) sold for one nonitemized price. (b) "Bundled transaction" does not include: (i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction; (ii) the sale of real property; (iii) the sale of services to real property; (iv) the retail sale of tangible personal property and a service if: (A) the tangible personal property:

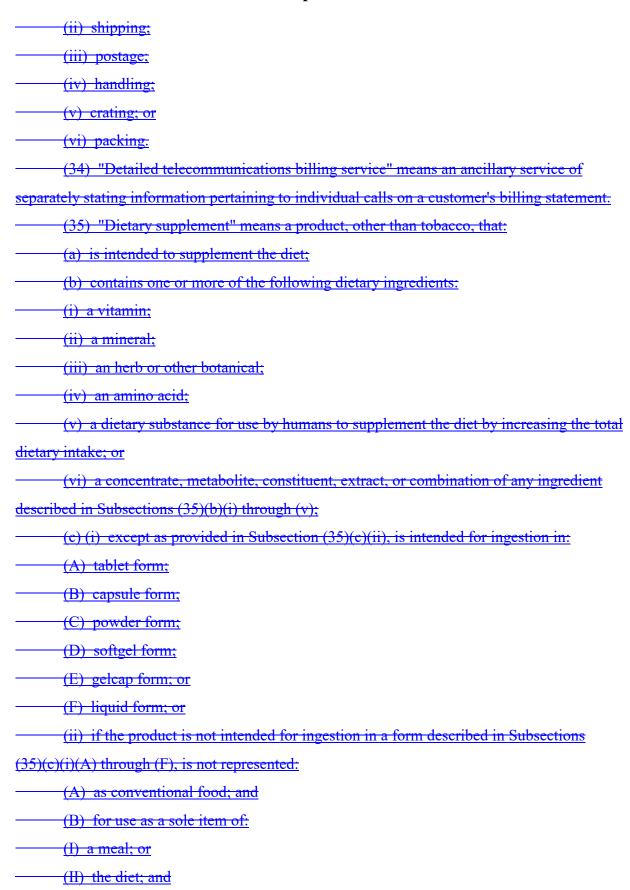


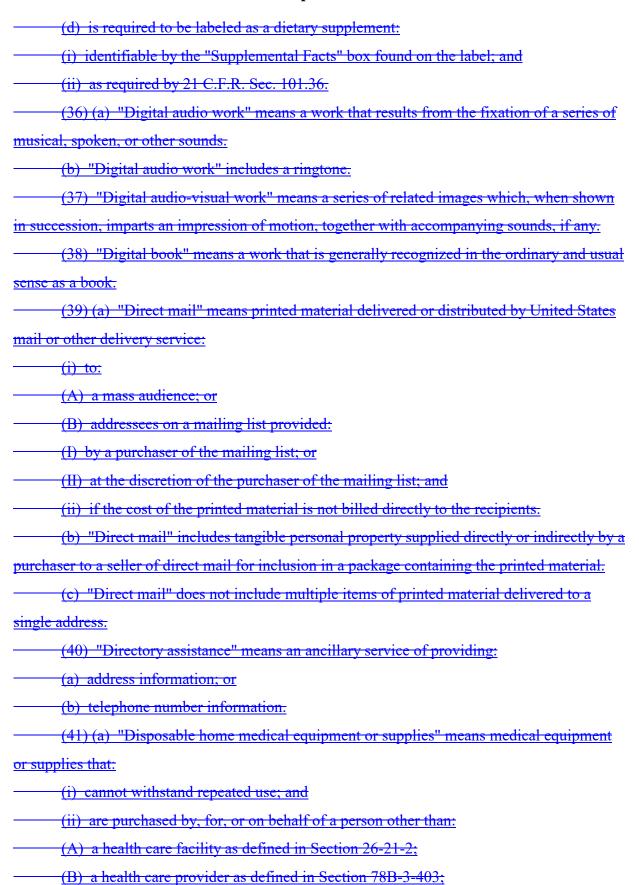


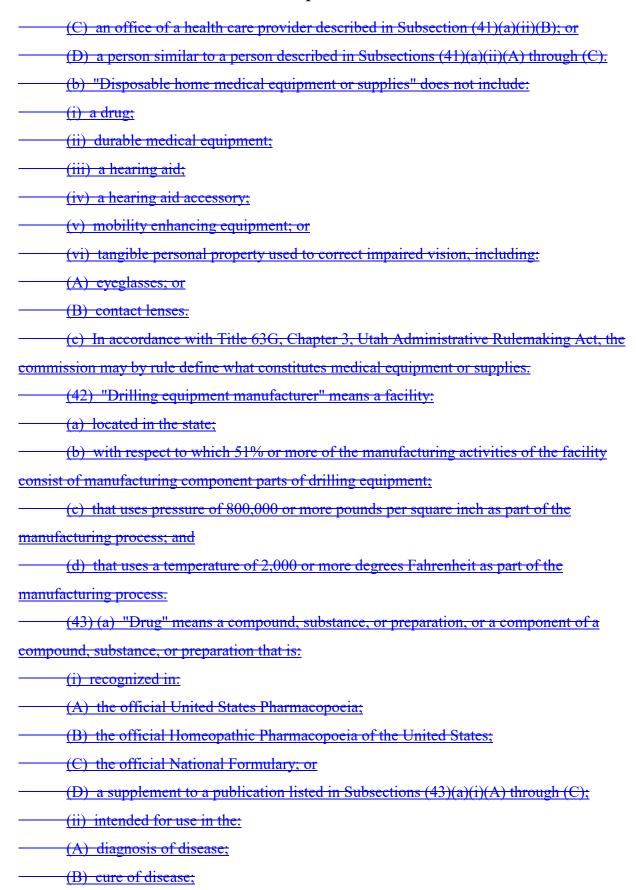
property or a product subject to taxation under this chapter is de minimis if: (A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or (B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction. (ii) For purposes of Subsection (19)(b)(vi), a seller: (A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and (B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis. (iii) For purposes of Subsection (19)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis. (f) For purposes of Subsection (19)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale. (20) "Certified automated system" means software certified by the governing board of the agreement that: (a) calculates the agreement sales and use tax imposed within a local taxing iurisdiction: (i) on a transaction; and (ii) in the states that are members of the agreement; (b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and (c) maintains a record of the transaction described in Subsection (20)(a)(i). (21) "Certified service provider" means an agent certified: (a) by the governing board of the agreement; and (b) to perform a seller's sales and use tax functions for an agreement sales and use tax, as outlined in the contract between the governing board of the agreement and the certified

service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases. (22) (a) Subject to Subsection (22)(b), "clothing" means all human wearing apparel suitable for general use. (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules: (i) listing the items that constitute "clothing"; and (ii) that are consistent with the list of items that constitute "clothing" under the agreement. (23) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel. (24) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection [(57)] (58) or residential use under Subsection [(111)] (112). (25) (a) "Common carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state. (b) (i) "Common carrier" does not include a person that, at the time the person is traveling to or from that person's place of employment, transports a passenger to or from the passenger's place of employment. (ii) For purposes of Subsection (25)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment. (c) "Common carrier" does not include a person that provides transportation network services, as defined in Section 13-51-102. (26) "Component part" includes: (a) poultry, dairy, and other livestock feed, and their components; (b) baling ties and twine used in the baling of hay and straw; (c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and (d) feed, seeds, and seedlings. (27) "Computer" means an electronic device that accepts information:









| (C) mitigation of disease; |
|---|
| (D) treatment of disease; or |
| (E) prevention of disease; or |
| (iii) intended to affect: |
| (A) the structure of the body; or |
| (B) any function of the body. |
| (b) "Drug" does not include: |
| (i) food and food ingredients; |
| (ii) a dietary supplement; |
| (iii) an alcoholic beverage; or |
| (iv) a prosthetic device. |
| (44) (a) Except as provided in Subsection (44)(c), "durable medical equipment" means |
| equipment that: |
| (i) can withstand repeated use; |
| (ii) is primarily and customarily used to serve a medical purpose; |
| (iii) generally is not useful to a person in the absence of illness or injury; and |
| (iv) is not worn in or on the body. |
| (b) "Durable medical equipment" includes parts used in the repair or replacement of the |
| equipment described in Subsection (44)(a). |
| (c) "Durable medical equipment" does not include mobility enhancing equipment. |
| (45) 59-12-102. |
| (b) "Electric energy storage asset" means property that is interconnected to the |
| electrical grid and is designed to: |
| ({a}i) receive electrical energy; |
| ({b} ii) store electrical energy as another energy form; and |
| (\frac{\{\text{c}\tii}\}{\text{iii}}\) (\frac{\{\text{i}\text{A}}\}{\text{o}}\) convert electrical energy described in Subsection (\frac{\{45\}1}{\text{l}})(b)(ii) back to |
| electricity and deliver the electricity for sale; or |
| (\fix\) use electrical energy described in Subsection (\fix\)(b)(ii) to provide |
| reliability or economic benefits to the grid. |
| {[(45)] }({46) "Electronic" means: |
| (a) relating to technology; and |
| |

| (b) having: |
|--|
| (i) electrical capabilities; |
| (ii) digital capabilities; |
| (iii) magnetic capabilities; |
| (iv) wireless capabilities; |
| (v) optical capabilities; |
| (vi) electromagnetic capabilities; or |
| (vii) capabilities similar to Subsections [(45)] (46)(b)(i) through (vi). |
| [(46)] (47) "Electronic financial payment service" means an establishment: |
| (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and |
| Clearinghouse Activities, of the 2012 North American Industry Classification System of the |
| federal Executive Office of the President, Office of Management and Budget; and |
| (b) that performs electronic financial payment services. |
| [(47)] (48) "Employee}c) "Industrial use" means the same as that term is defined in |
| Section {59-10-401. |
| [(48)] (49) "Fixed guideway" means a public transit facility that uses and occupies: |
| (a) rail for the use of public transit; or |
| (b) a separate right-of-way for the use of public transit. |
| [(49)] (50) "Fixed wing turbine powered aircraft" means an aircraft that: |
| (a) is powered by turbine engines; |
| (b) operates on jet fuel; and |
| (c) has wings that are permanently attached to the fuselage of the aircraft. |
| [(50)] (51) "Fixed wireless service" means a telecommunications service that provides |
| radio communication between fixed points. |
| [(51)] (52) (a) "Food and food ingredients" means substances: |
| (i) regardless of whether the substances are in: |
| (A) liquid form; |
| (B) concentrated form; |
| (C) solid form; |
| (D) frozen form; |
| (E) dried form; or |

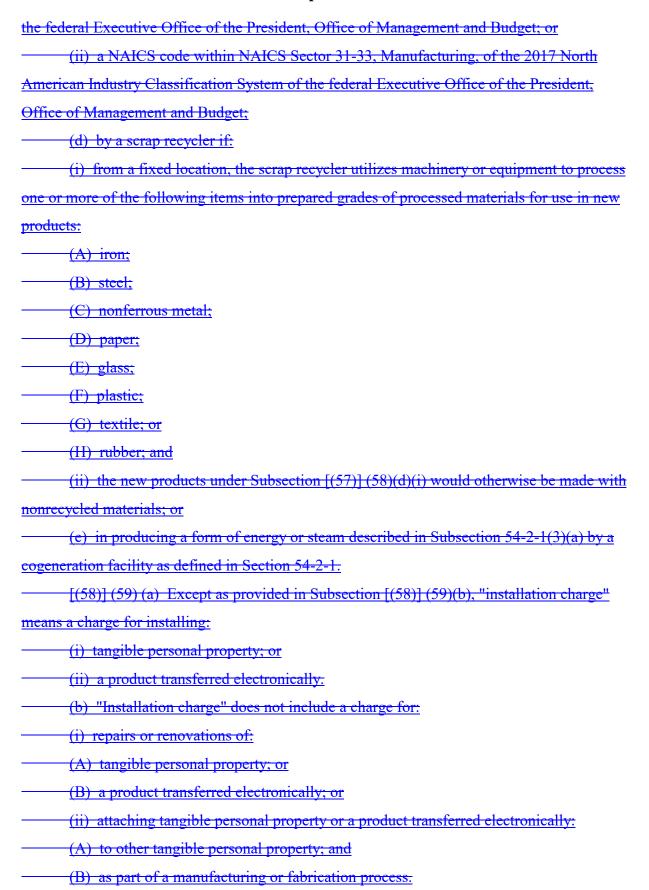
| (F) dehydrated form; and |
|---|
| (ii) that are: |
| (A) sold for: |
| (I) ingestion by humans; or |
| (II) chewing by humans; and |
| (B) consumed for the substance's: |
| (I) taste; or |
| (II) nutritional value. |
| (b) "Food and food ingredients" includes an item}59-12-102. |
| (d) "Office" means the Office of Energy Development created in Section 63M-4-401. |
| (e) "Qualified purchase" means the purchase of an electric energy storage asset for |
| commercial use, industrial use, or residential use. |
| (f) "Qualified taxpayer" means a claimant who: |
| (i) makes a qualified purchase; and |
| (ii) receives a tax credit certificate from the office. |
| (g) "Residential use" means the same as that term is defined in Section 59-12-102. |
| (h) "Tax credit certificate" means a certificate issued by the office in accordance with |
| Subsection (4)(b). |
| (2) Subject to the other provisions of this section, a qualified taxpayer may claim a |
| nonrefundable tax credit against tax otherwise due under this chapter in an amount equal to the |
| <u>lesser of:</u> |
| (a) if the qualified purchase is for residential use: |
| (i) an amount equal to 25% of the price of the qualified purchase; or |
| (ii) \$5,000; or |
| (b) if the qualified purchase is for commercial use or industrial use: |
| (i) an amount equal to 10% of the price of the qualified purchase; or |
| (ii) \$50,000. |
| (3) The aggregate annual total amount of tax credits represented by tax credit |
| certificates that the office issues under this section and Section 59-7-625 may not exceed |

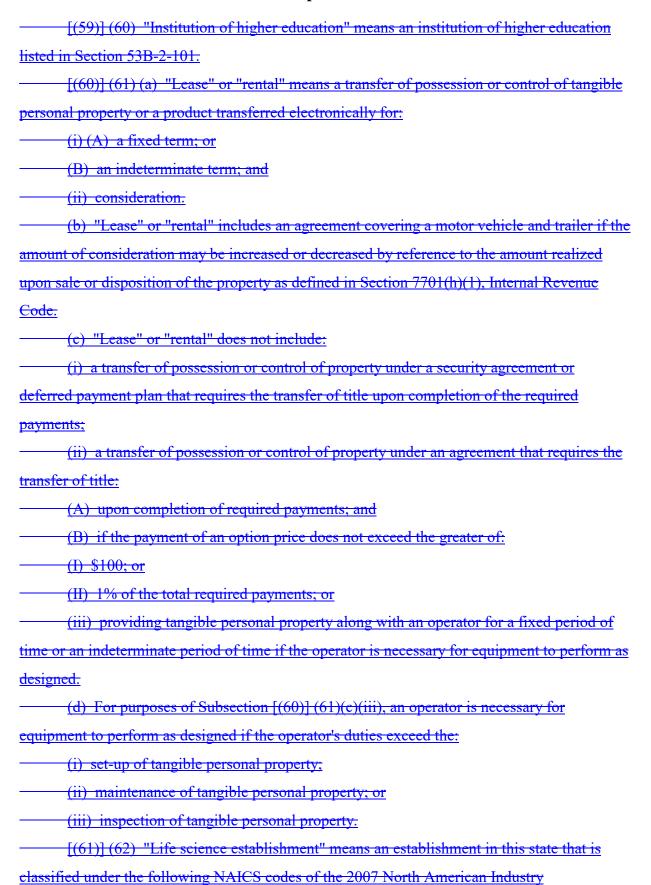
(4) (a) (i) To claim a tax credit under this section a taxpayer shall, using a form

\$1,000,000.

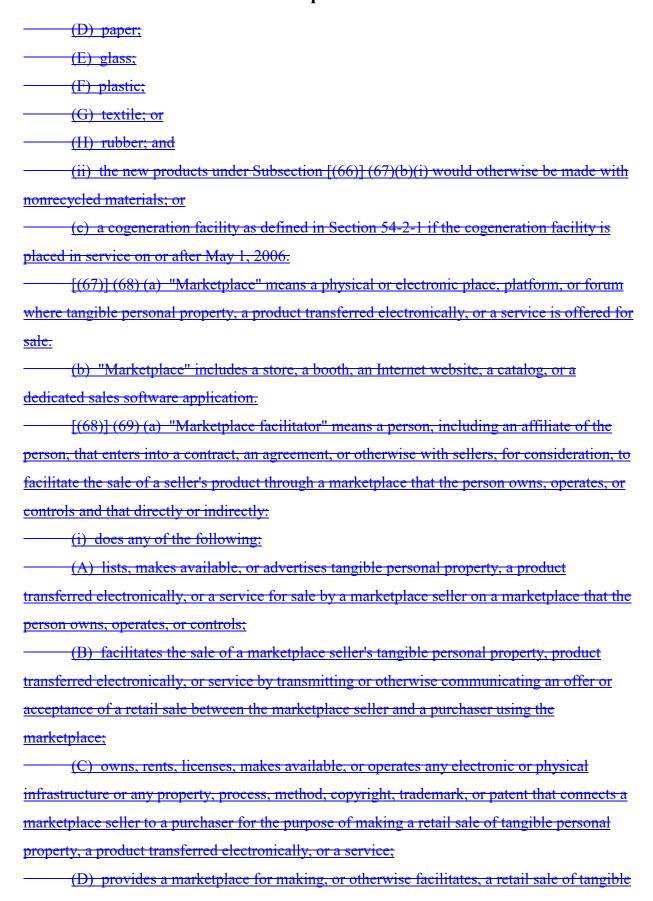
prescribed by the office: (A) submit to the office an application for the tax credit; and (B) provide the office proof of a qualified purchase. (ii) Upon receipt of the information described in Subsection {{(95)}} (96)(b)(iii). (c) "Food and food ingredients" does not include: (i) an alcoholic beverage; (ii) tobacco; or (iii) prepared food. [(52)] (53) (a) "Fundraising sales" means sales: (i) (A) made by a school; or (B) made by a school student; (ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and (iii) that are part of an officially sanctioned school activity. (b) For purposes of Subsection [(52)] (53)(a)(iii), "officially sanctioned school activity" means a school activity: (i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities; (ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and (iii) the net or gross revenues from which are deposited in a dedicated account controlled by the school or school district. [(53)] (54) "Geothermal energy" means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity. [(54)] (55) "Governing board of the agreement" means the governing board of the agreement that is: (a) authorized to administer the agreement; and (b) established in accordance with the agreement. -[(55)] (56) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means: (i) the executive branch of the state, including all departments, institutions, boards,

divisions, bureaus, offices, commissions, and committees; (ii) the judicial branch of the state, including the courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch; (iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst; (iv) the National Guard; (v) an independent entity as defined in Section 63E-1-102; or (vi) a political subdivision as defined in Section 17B-1-102. (b) "Governmental entity" does not include the state systems of public and higher education, including: (i) a school; (ii) the State Board of Education; (iii) the State Board of Regents; or (iv) an institution of higher education described in Section 53B-1-102. [(56)] (57) "Hydroelectric energy" means water used as the sole source of energy to produce electricity. [(57)] (58) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels: (a) in mining or extraction of minerals; (b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including: (i) commercial greenhouses; (ii) irrigation pumps; (iii) farm machinery; (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and (v) other farming activities; (c) in manufacturing tangible personal property at an establishment described in: (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of





Classification System of the federal Executive Office of the President, Office of Management and Budget: (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing; (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or (c) NAICS Code 334517, Irradiation Apparatus Manufacturing. [(62)] (63) "Life science research and development facility" means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility. [(63)] (64) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser. [(64)] (65) "Local taxing jurisdiction" means a: (a) county that is authorized to impose an agreement sales and use tax; (b) city that is authorized to impose an agreement sales and use tax; or (c) town that is authorized to impose an agreement sales and use tax. [(65)] (66) "Manufactured home" means the same as that term is defined in Section 15A-1-302. [(66)] (67) "Manufacturing facility" means: (a) an establishment described in: (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; (b) a scrap recycler if: (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products: (A) iron; (B) steel; (C) nonferrous metal;



personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

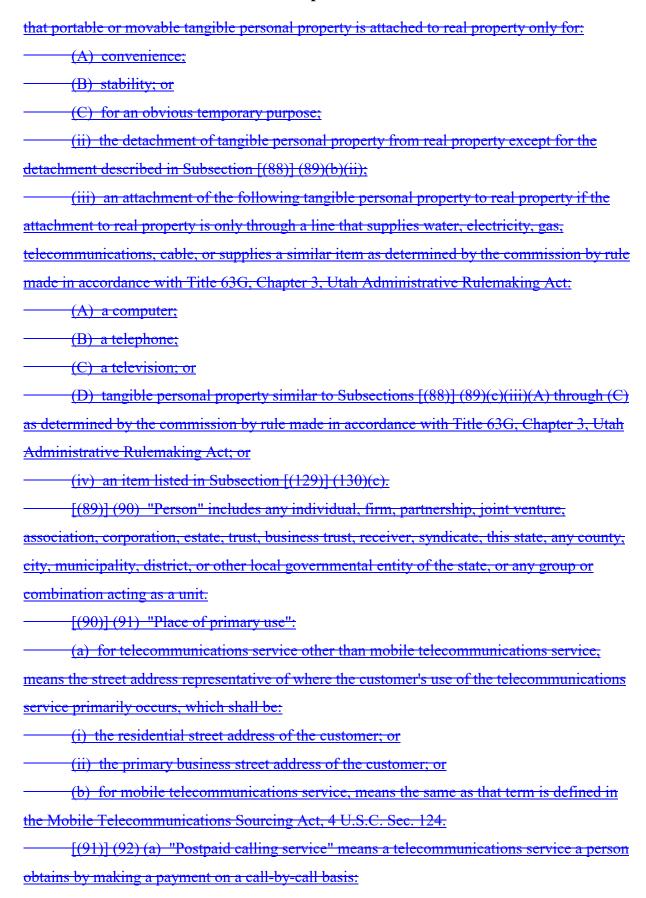
- (E) provides software development or research and development activities related to any activity described in this Subsection [(68)] (69)(a)(i), if the software development or research and development activity is directly related to the person's marketplace;
 - (F) provides or offers fulfillment or storage services for a marketplace seller;
- (G) sets prices for the sale of tangible personal property, a product transferred electronically, or a service by a marketplace seller;
- (H) provides or offers customer service to a marketplace seller or a marketplace seller's purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal property, a product transferred electronically, or a service sold by a marketplace seller on the person's marketplace; or
 - (I) brands or otherwise identifies sales as those of the person; and
 - (ii) does any of the following:
- (A) collects the sales price or purchase price of a retail sale of tangible personal property, a product transferred electronically, or a service;
- (B) provides payment processing services for a retail sale of tangible personal property, a product transferred electronically, or a service;
- (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing fee, a fee for inserting or making available tangible personal property, a product transferred electronically, or a service on the person's marketplace, or other consideration for the facilitation of a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;
- (D) through terms and conditions, an agreement, or another arrangement with a third person, collects payment from a purchase for a retail sale of tangible personal property, a product transferred electronically, or a service and transmits that payment to the marketplace seller, regardless of whether the third person receives compensation or other consideration in exchange for the service; or
 - (E) provides a virtual currency for a purchaser to use to purchase tangible personal

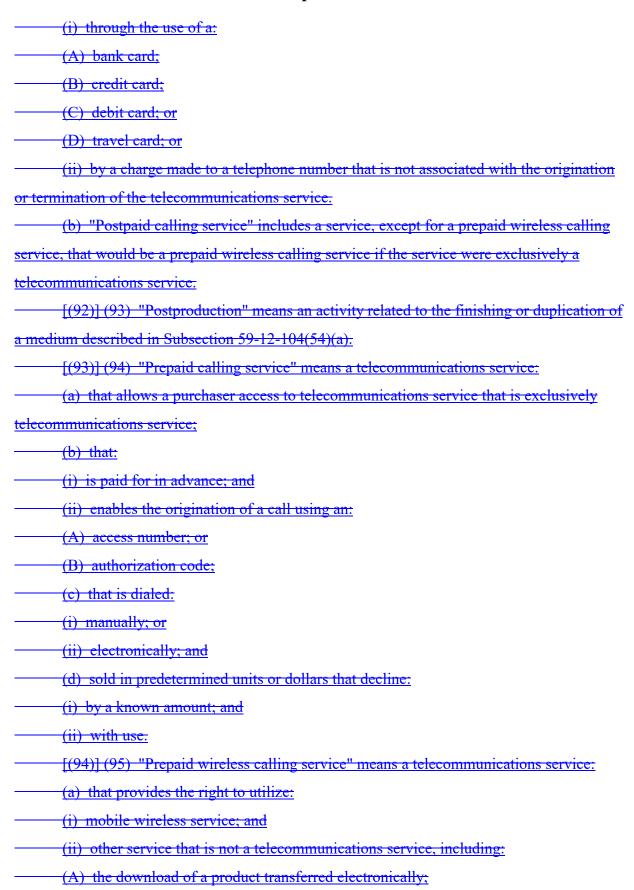
property, a product transferred electronically, or service offered for sale. (b) "Marketplace facilitator" does not include a person that only provides payment processing services. [(69)] (70) "Marketplace seller" means a seller that makes one or more retail sales through a marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the seller is required to be registered to collect and remit the tax under this part. [(70)] (71) "Member of the immediate family of the producer" means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a: (a) child or stepchild, regardless of whether the child or stepchild is: (i) an adopted child or adopted stepchild; or (ii) a foster child or foster stepchild; (b) grandchild or stepgrandchild; (c) grandparent or stepgrandparent; (d) nephew or stepnephew; (e) niece or stepniece; (f) parent or stepparent; (g) sibling or stepsibling; (h) spouse; (i) person who is the spouse of a person described in Subsections [(70)] (71)(a) through (g); or (i) person similar to a person described in Subsections [(70)] (71)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act. [(71)] (72) "Mobile home" means the same as that term is defined in Section 15A-1-302. [(72)] (73) "Mobile telecommunications service" means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124. [(73)] (74) (a) "Mobile wireless service" means a telecommunications service, regardless of the technology used, if: (i) the origination point of the conveyance, routing, or transmission is not fixed; (ii) the termination point of the conveyance, routing, or transmission is not fixed; or

(iii) the origination point described in Subsection [(73)] (74)(a)(i) and the termination point described in Subsection [(73)] (74)(a)(ii) are not fixed. (b) "Mobile wireless service" includes a telecommunications service that is provided by a commercial mobile radio service provider. (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define "commercial mobile radio service provider." [(74)] (75) (a) Except as provided in Subsection [(74)] (75)(c), "mobility enhancing equipment" means equipment that is: (i) primarily and customarily used to provide or increase the ability to move from one place to another; (ii) appropriate for use in a: (A) home; or (B) motor vehicle; and (iii) not generally used by persons with normal mobility. (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection [(74)] (75)(a). (c) "Mobility enhancing equipment" does not include: (i) a motor vehicle; (ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer; (iii) durable medical equipment; or (iv) a prosthetic device. [(75)] (76) "Model 1 seller" means a seller registered under the agreement that has selected a certified service provider as the seller's agent to perform the seller's sales and use tax functions for agreement sales and use taxes, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases. [(76)] (77) "Model 2 seller" means a seller registered under the agreement that: (a) except as provided in Subsection [(76)] (77)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and (b) retains responsibility for remitting all of the sales tax:

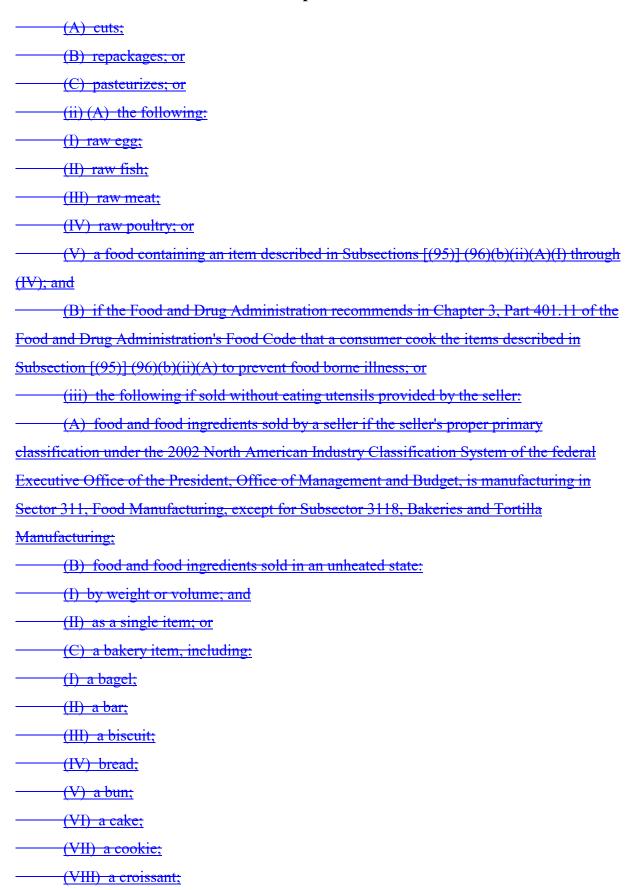
| (i) collected by the seller; and |
|--|
| (ii) to the appropriate local taxing jurisdiction. |
| [(77)] (78) (a) Subject to Subsection [(77)] (78)(b), "model 3 seller" means a seller |
| registered under the agreement that has: |
| (i) sales in at least five states that are members of the agreement; |
| (ii) total annual sales revenues of at least \$500,000,000; |
| (iii) a proprietary system that calculates the amount of tax: |
| (A) for an agreement sales and use tax; and |
| (B) due to each local taxing jurisdiction; and |
| (iv) entered into a performance agreement with the governing board of the agreement. |
| (b) For purposes of Subsection [(77)] (78)(a), "model 3 seller" includes an affiliated |
| group of sellers using the same proprietary system. |
| [(78)] (79) "Model 4 seller" means a seller that is registered under the agreement and is |
| not a model 1 seller, model 2 seller, or model 3 seller. |
| [(79)] (80) "Modular home" means a modular unit as defined in Section 15A-1-302. |
| [(80)] (81) "Motor vehicle" means the same as that term is defined in Section |
| 41-1a-102. |
| [(81)] (82) "Oil sands" means impregnated bituminous sands that: |
| (a) contain a heavy, thick form of petroleum that is released when heated, mixed with |
| other hydrocarbons, or otherwise treated; |
| (b) yield mixtures of liquid hydrocarbon; and |
| (c) require further processing other than mechanical blending before becoming finished |
| petroleum products. |
| [(82)] (83) "Oil shale" means a group of fine black to dark brown shales containing |
| kerogen material that yields petroleum upon heating and distillation. |
| [(83)] (84) "Optional computer software maintenance contract" means a computer |
| software maintenance contract that a customer is not obligated to purchase as a condition to the |
| retail sale of computer software. |
| [(84)] (85) (a) "Other fuels" means products that burn independently to produce heat or |
| <u>energy.</u> |
| (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible |

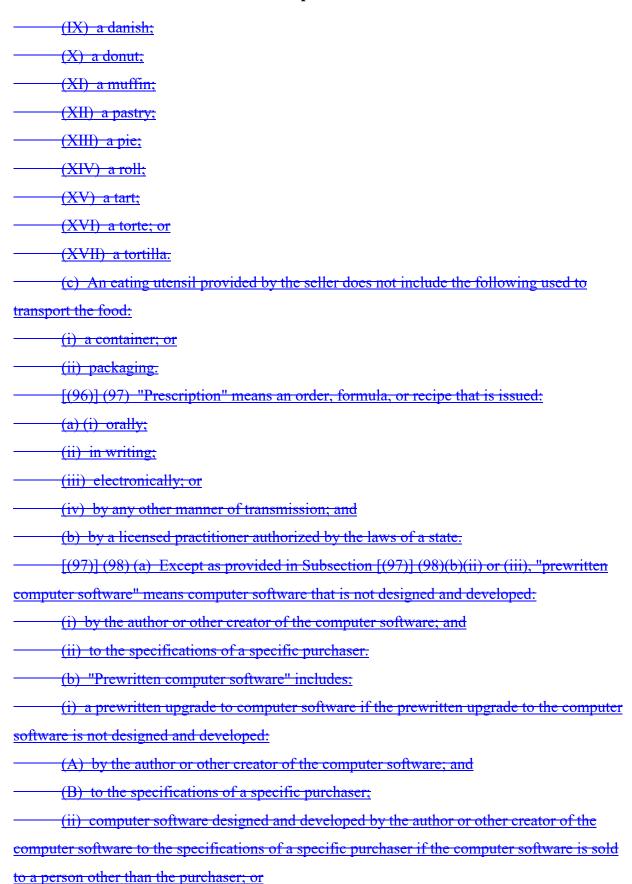
personal property. [(85)] (86) (a) "Paging service" means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager. (b) For purposes of Subsection [(85)] (86)(a), the transmission of a coded radio signal includes a transmission by message or sound. [(86)] (87) "Pawnbroker" means the same as that term is defined in Section 13-32a-102. [(87)] (88) "Pawn transaction" means the same as that term is defined in Section 13-32a-102. [(88)] (89) (a) "Permanently attached to real property" means that for tangible personal property attached to real property: (i) the attachment of the tangible personal property to the real property: (A) is essential to the use of the tangible personal property; and (B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or (ii) if the tangible personal property is detached from the real property, the detachment would: (A) cause substantial damage to the tangible personal property; or (B) require substantial alteration or repair of the real property to which the tangible personal property is attached. (b) "Permanently attached to real property" includes: (i) the attachment of an accessory to the tangible personal property if the accessory is: (A) essential to the operation of the tangible personal property; and (B) attached only to facilitate the operation of the tangible personal property; (ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or (iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection [(88)] (89)(c)(iii) or (iv). (c) "Permanently attached to real property" does not include: (i) the attachment of portable or movable tangible personal property to real property if

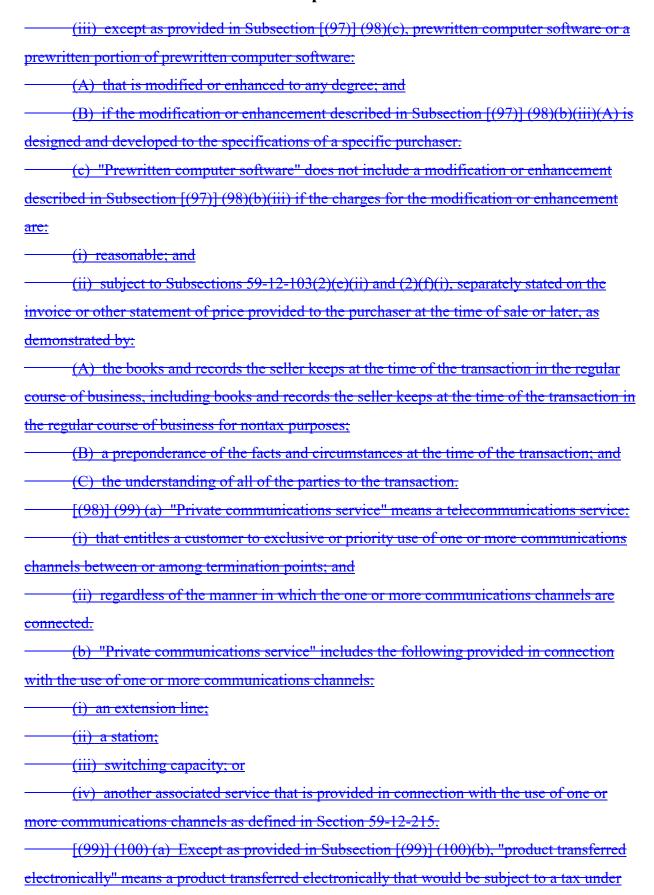




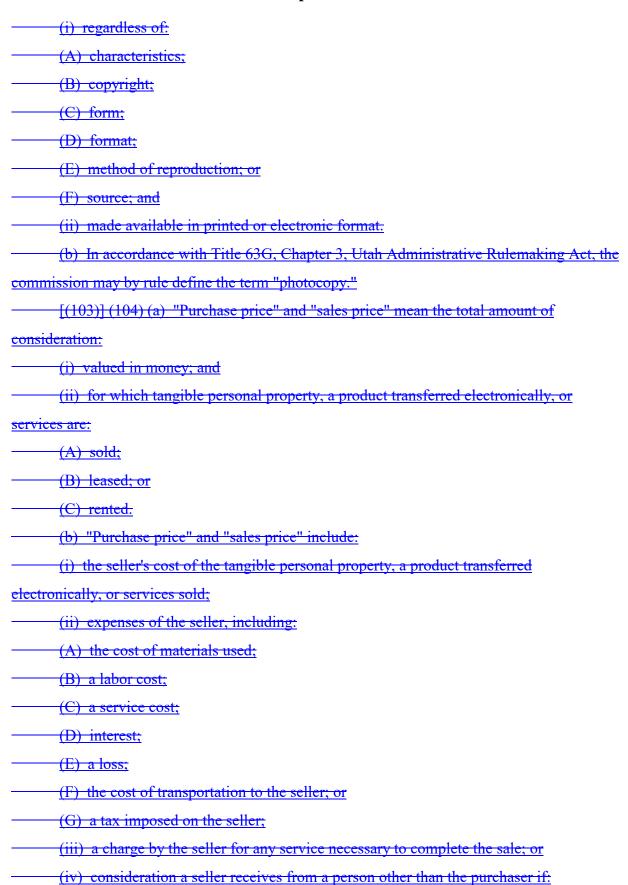
| (B) a content service; or |
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| (C) an ancillary service; |
| (b) that: |
| (i) is paid for in advance; and |
| (ii) enables the origination of a call using an: |
| (A) access number; or |
| (B) authorization code; |
| (c) that is dialed: |
| (i) manually; or |
| (ii) electronically; and |
| (d) sold in predetermined units or dollars that decline: |
| (i) by a known amount; and |
| (ii) with use. |
| [(95)] (96) (a) "Prepared food" means: |
| (i) food: |
| (A) sold in a heated state; or |
| (B) heated by a seller; |
| (ii) two or more food ingredients mixed or combined by the seller for sale as a single |
| item; or |
| (iii) except as provided in Subsection [(95)] (96)(c), food sold with an eating utensil |
| provided by the seller, including a: |
| (A) plate; |
| (B) knife; |
| (C) fork; |
| (D) spoon; |
| (E) glass; |
| (F) cup; |
| (G) napkin; or |
| (H) straw. |
| (b) "Prepared food" does not include: |
| (i) food that a seller only: |

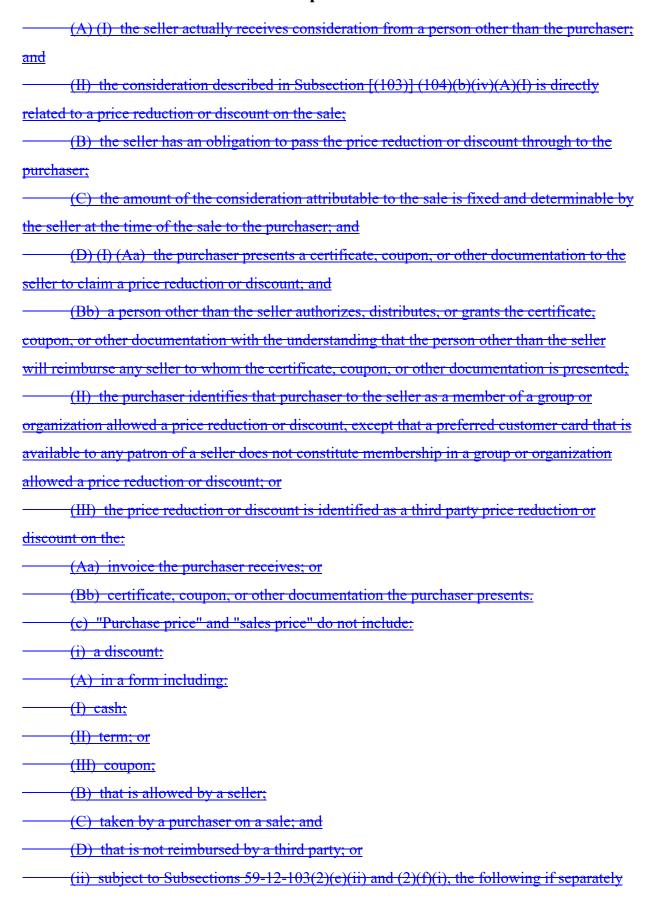




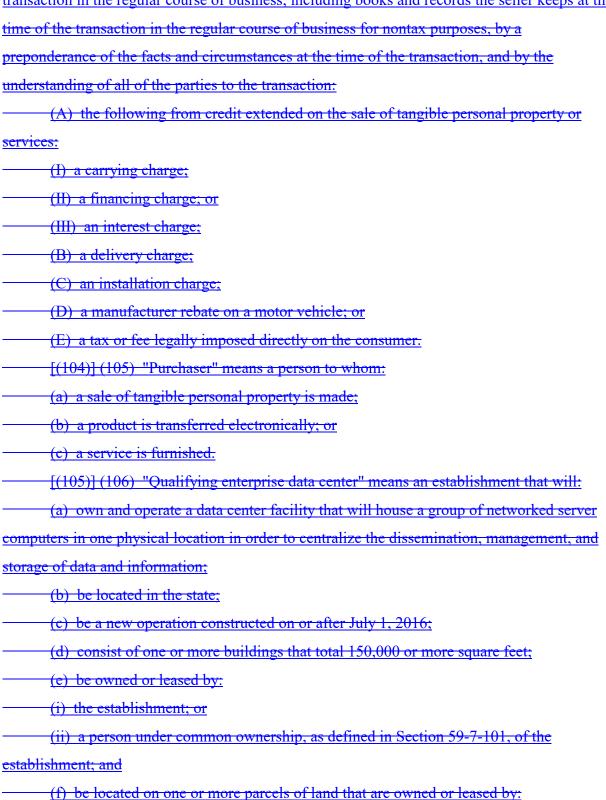


| this chapter if that product was transferred in a manner other than electronically. |
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| (b) "Product transferred electronically" does not include: |
| (i) an ancillary service; |
| (ii) computer software; or |
| (iii) a telecommunications service. |
| [(100)] (101) (a) "Prosthetic device" means a device that is worn on or in the body to: |
| (i) artificially replace a missing portion of the body; |
| (ii) prevent or correct a physical deformity or physical malfunction; or |
| (iii) support a weak or deformed portion of the body. |
| (b) "Prosthetic device" includes: |
| (i) parts used in the repairs or renovation of a prosthetic device; |
| (ii) replacement parts for a prosthetic device; |
| (iii) a dental prosthesis; or |
| (iv) a hearing aid. |
| (c) "Prosthetic device" does not include: |
| (i) corrective eyeglasses; or |
| (ii) contact lenses. |
| [(101)] (102) (a) "Protective equipment" means an item: |
| (i) for human wear; and |
| (ii) that is: |
| (A) designed as protection: |
| (I) to the wearer against injury or disease; or |
| (II) against damage or injury of other persons or property; and |
| (B) not suitable for general use. |
| (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the |
| commission shall make rules: |
| (i) listing the items that constitute "protective equipment"; and |
| (ii) that are consistent with the list of items that constitute "protective equipment" |
| under the agreement. |
| [(102)] (103) (a) For purposes of Subsection 59-12-104(41), "publication" means any |
| written or printed matter, other than a photocopy: |

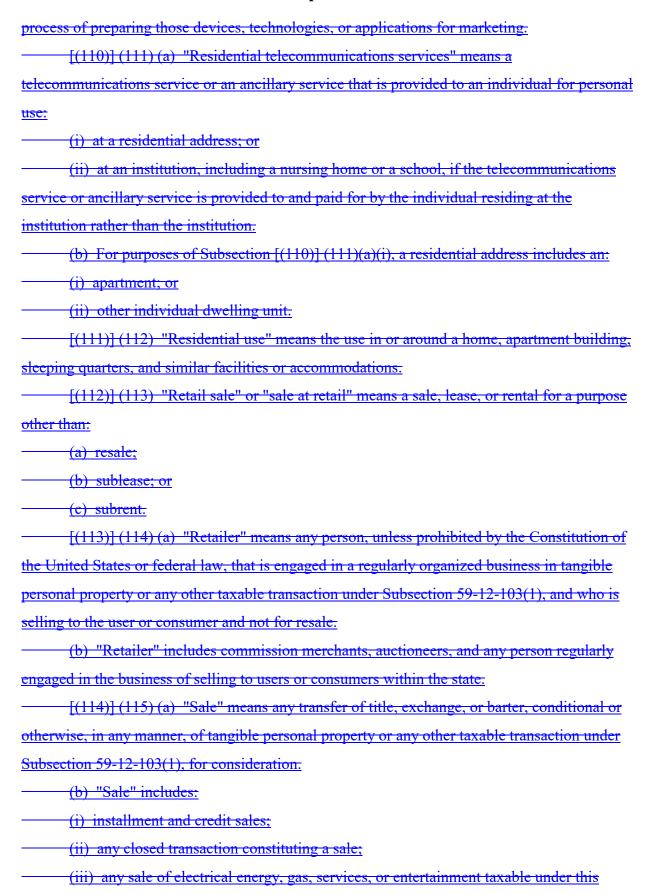




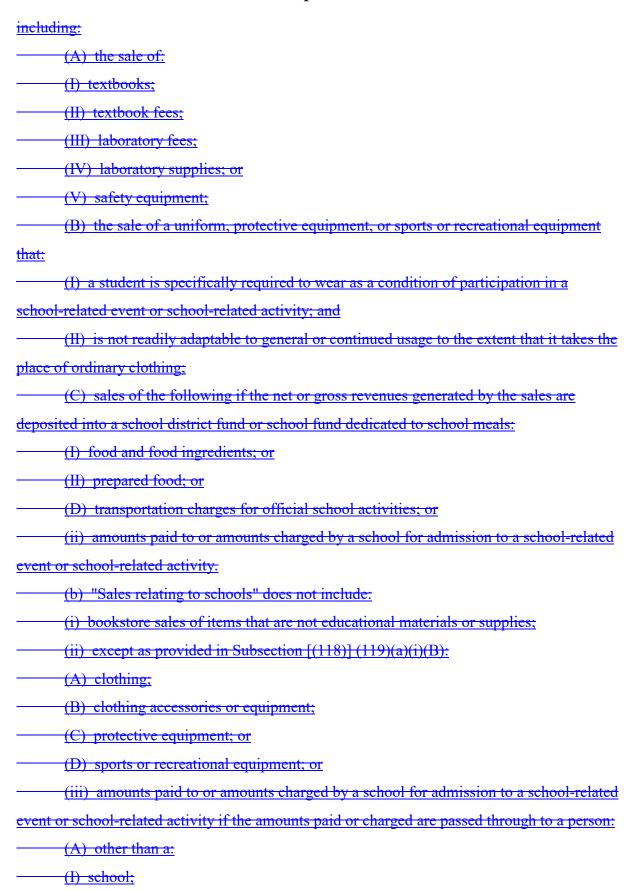
stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:

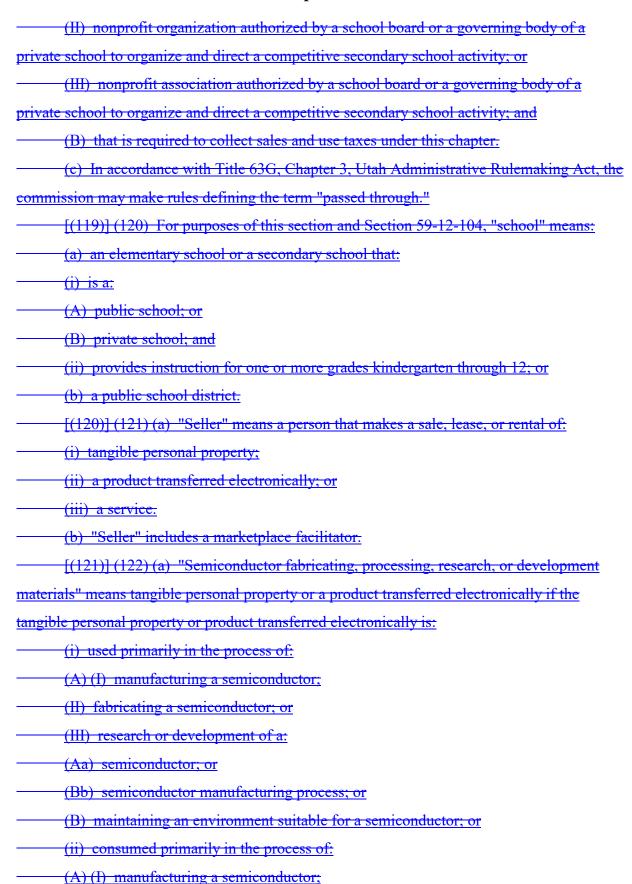


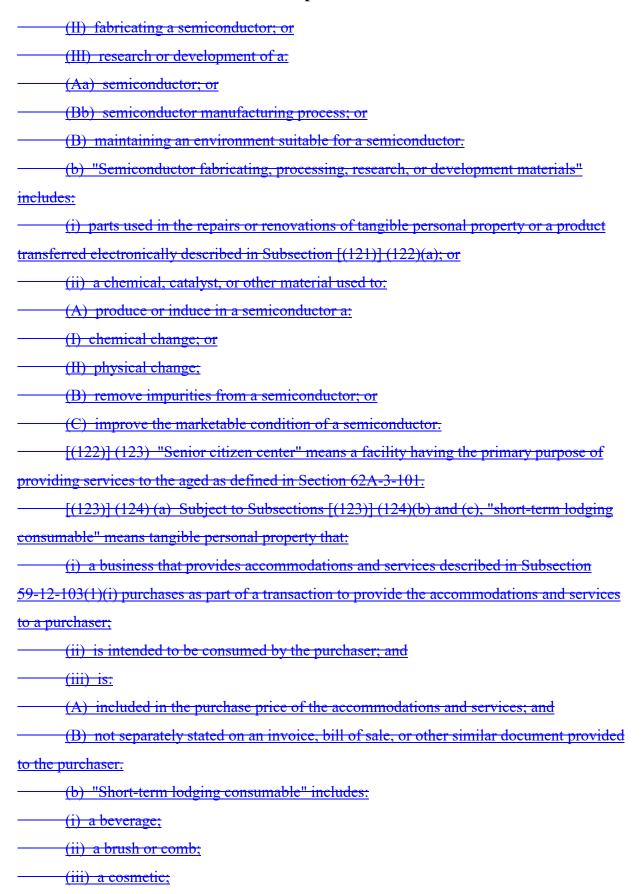
| (i) the establishment; or |
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| (ii) a person under common ownership, as defined in Section 59-7-101, of the |
| establishment. |
| [(106)] (107) "Regularly rented" means: |
| (a) rented to a guest for value three or more times during a calendar year; or |
| (b) advertised or held out to the public as a place that is regularly rented to guests for |
| value. |
| [(107)] (108) "Rental" means the same as that term is defined in Subsection [(60)] (61). |
| [(108)] (109) (a) Except as provided in Subsection [(108)] (109)(b), "repairs or |
| renovations of tangible personal property" means: |
| (i) a repair or renovation of tangible personal property that is not permanently attached |
| to real property; or |
| (ii) attaching tangible personal property or a product transferred electronically to other |
| tangible personal property or detaching tangible personal property or a product transferred |
| electronically from other tangible personal property if: |
| (A) the other tangible personal property to which the tangible personal property or |
| product transferred electronically is attached or from which the tangible personal property or |
| product transferred electronically is detached is not permanently attached to real property; and |
| (B) the attachment of tangible personal property or a product transferred electronically |
| to other tangible personal property or detachment of tangible personal property or a product |
| transferred electronically from other tangible personal property is made in conjunction with a |
| repair or replacement of tangible personal property or a product transferred electronically. |
| (b) "Repairs or renovations of tangible personal property" does not include: |
| (i) attaching prewritten computer software to other tangible personal property if the |
| other tangible personal property to which the prewritten computer software is attached is not |
| permanently attached to real property; or |
| (ii) detaching prewritten computer software from other tangible personal property if the |
| other tangible personal property from which the prewritten computer software is detached is |
| not permanently attached to real property. |
| [(109)] (110) "Research and development" means the process of inquiry or |
| experimentation aimed at the discovery of facts, devices, technologies, or applications and the |



chapter; (iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and (v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made. [(115)] (116) "Sale at retail" means the same as that term is defined in Subsection [(112)] (113). [(116)] (117) "Sale-leaseback transaction" means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred: (a) by a purchaser-lessee; (b) to a lessor; (c) for consideration; and (d) if: (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase of the tangible personal property or product transferred electronically; (ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing: (A) for the tangible personal property or product transferred electronically; and (B) to the purchaser-lessee; and (iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to: (A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and (B) account for the lease payments as payments made under a financing arrangement. [(117)] (118) "Sales price" means the same as that term is defined in Subsection [(103)] (104). -[(118)] (119) (a) "Sales relating to schools" means the following sales by, amounts paid to, or amounts charged by a school: (i) sales that are directly related to the school's educational functions or activities

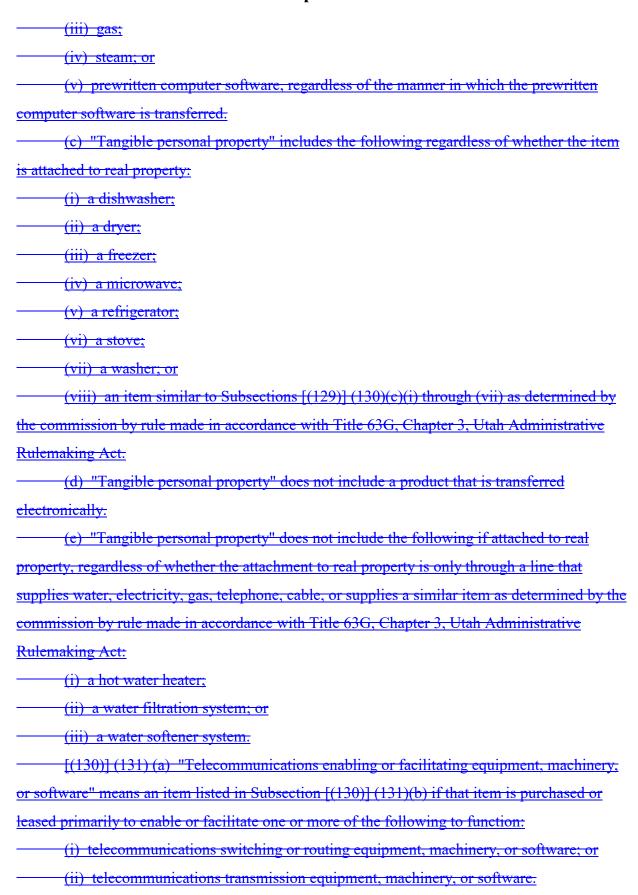


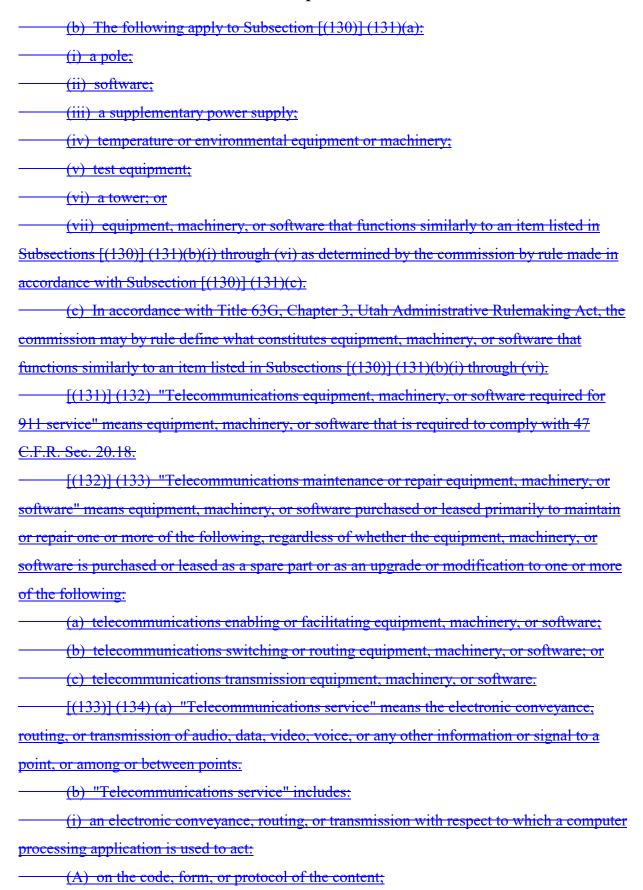




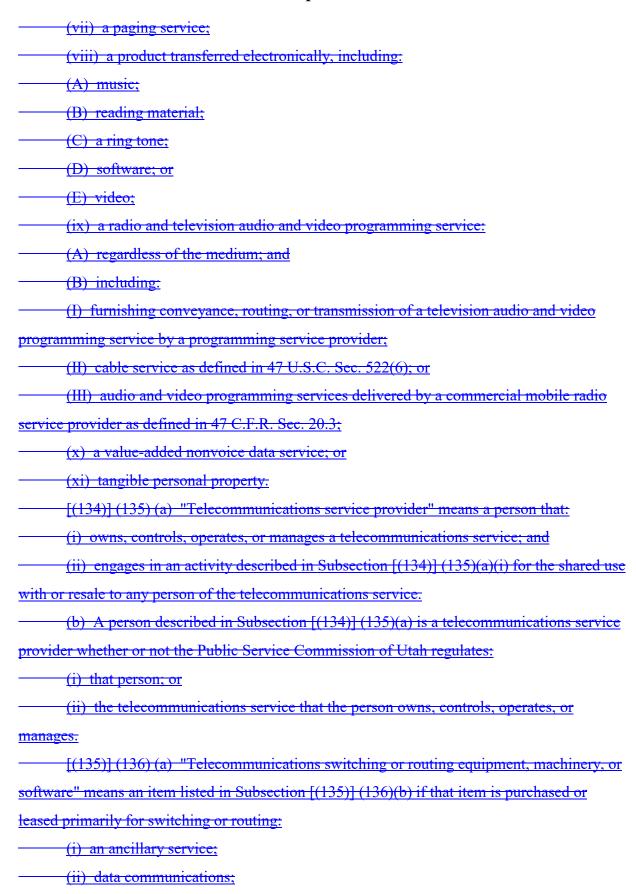
| (iv) a hair care product; |
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| (v) lotion; |
| (vi) a magazine; |
| (vii) makeup; |
| (viii) a meal; |
| (ix) mouthwash; |
| (x) nail polish remover; |
| (xi) a newspaper; |
| (xii) a notepad; |
| (xiii) a pen; |
| (xiv) a pencil; |
| (xv) a razor; |
| (xvi) saline solution; |
| (xvii) a sewing kit; |
| (xviii) shaving cream; |
| (xix) a shoe shine kit; |
| (xx) a shower cap; |
| (xxi) a snack item; |
| (xxii) soap; |
| (xxiii) toilet paper; |
| (xxiv) a toothbrush; |
| (xxv) toothpaste; or |
| (xxvi) an item similar to Subsections [(123)] (124)(b)(i) through (xxv) as the |
| commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah |
| Administrative Rulemaking Act. |
| (c) "Short-term lodging consumable" does not include: |
| (i) tangible personal property that is cleaned or washed to allow the tangible personal |
| property to be reused; or |
| (ii) a product transferred electronically. |
| [(124)] (125) "Simplified electronic return" means the electronic return: |
| (a) described in Section 318(C) of the agreement; and |

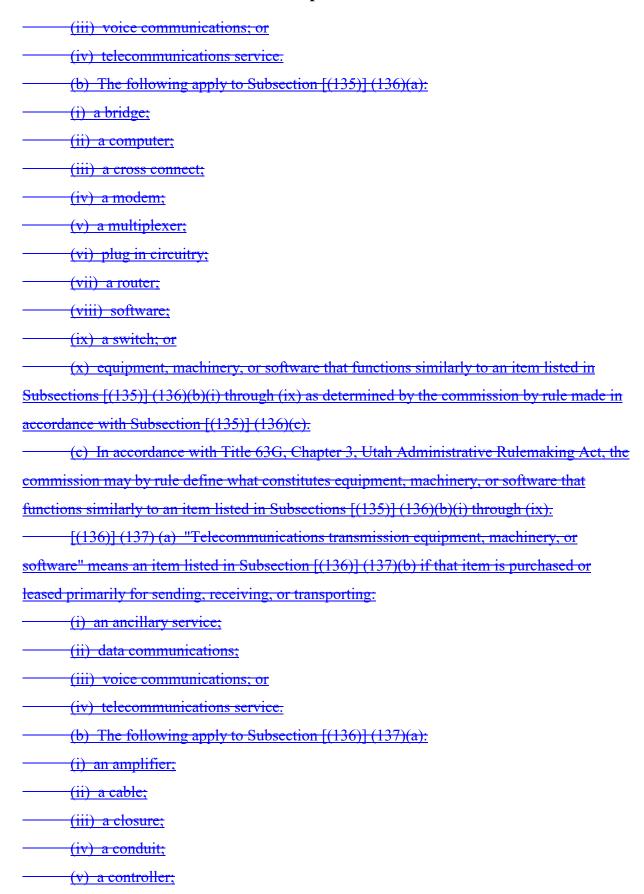
| (b) approved by the governing board of the agreement. |
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| [(125)] (126) "Solar energy" means the sun used as the sole source of energy for |
| producing electricity. |
| [(126)] (127) (a) "Sports or recreational equipment" means an item: |
| (i) designed for human use; and |
| (ii) that is: |
| (A) worn in conjunction with: |
| (I) an athletic activity; or |
| (II) a recreational activity; and |
| (B) not suitable for general use. |
| (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the |
| commission shall make rules: |
| (i) listing the items that constitute "sports or recreational equipment"; and |
| (ii) that are consistent with the list of items that constitute "sports or recreational |
| equipment" under the agreement. |
| [(127)] (128) "State" means the state of Utah, its departments, and agencies. |
| [(128)] (129) "Storage" means any keeping or retention of tangible personal property or |
| any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose |
| except sale in the regular course of business. |
| [(129)] (130) (a) Except as provided in Subsection [(129)] (130)(d) or (e), "tangible |
| personal property" means personal property that: |
| (i) may be: |
| (A) seen; |
| (B) weighed; |
| (C) measured; |
| (D) felt; or |
| (E) touched; or |
| (ii) is in any manner perceptible to the senses. |
| (b) "Tangible personal property" includes: |
| (i) electricity; |
| (ii) water; |

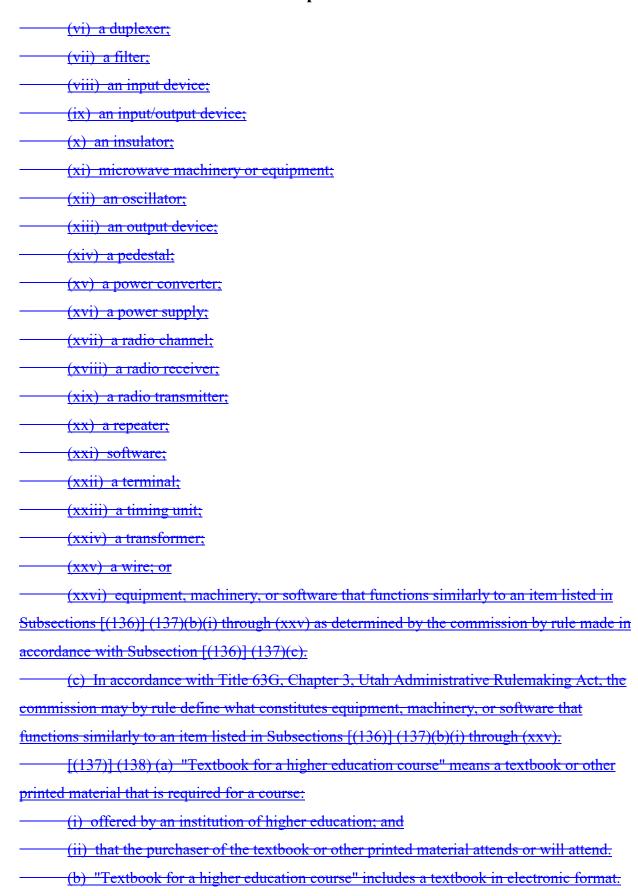


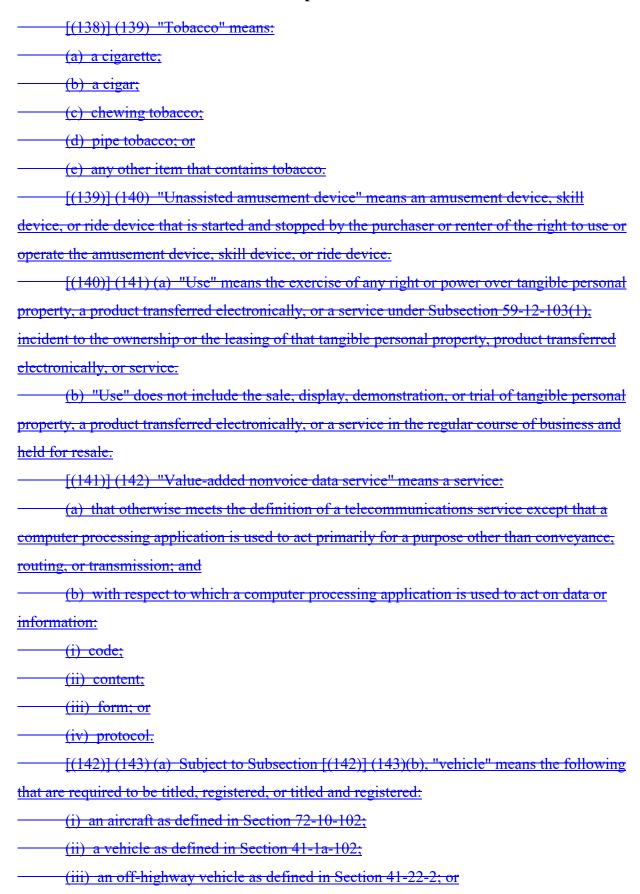


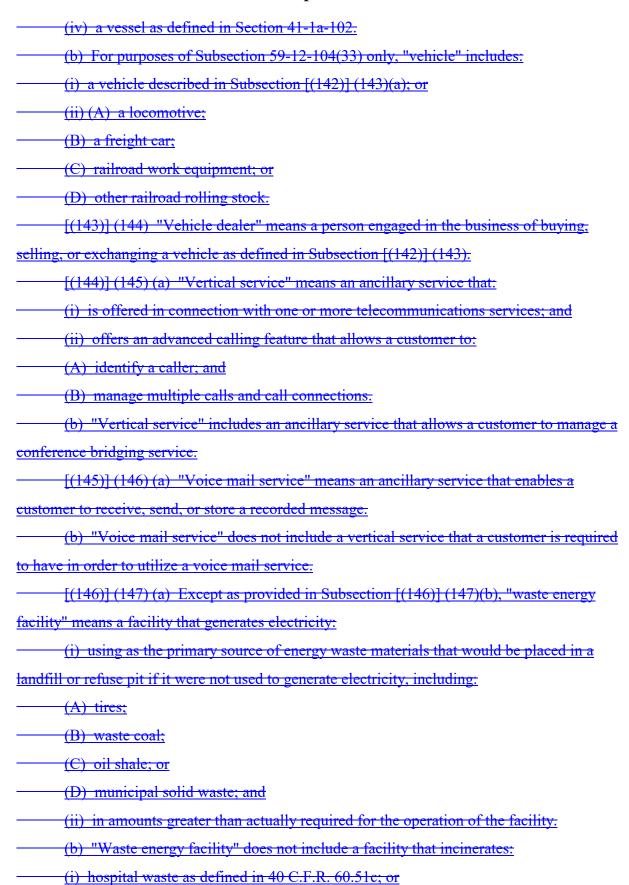
| (B) for the purpose of electronic conveyance, routing, or transmission; and |
|--|
| (C) regardless of whether the service: |
| (I) is referred to as voice over Internet protocol service; or |
| (II) is classified by the Federal Communications Commission as enhanced or value |
| added; |
| (ii) an 800 service; |
| (iii) a 900 service; |
| (iv) a fixed wireless service; |
| (v) a mobile wireless service; |
| (vi) a postpaid calling service; |
| (vii) a prepaid calling service; |
| (viii) a prepaid wireless calling service; or |
| (ix) a private communications service. |
| (c) "Telecommunications service" does not include: |
| (i) advertising, including directory advertising; |
| (ii) an ancillary service; |
| (iii) a billing and collection service provided to a third party; |
| (iv) a data processing and information service if: |
| (A) the data processing and information service allows data to be: |
| (I) (Aa) acquired; |
| (Bb) generated; |
| (Cc) processed; |
| (Dd) retrieved; or |
| (Ee) stored; and |
| (II) delivered by an electronic transmission to a purchaser; and |
| (B) the purchaser's primary purpose for the underlying transaction is the processed data |
| or information; |
| (v) installation or maintenance of the following on a customer's premises: |
| (A) equipment; or |
| (B) wiring; |
| (vi) Internet access service; |

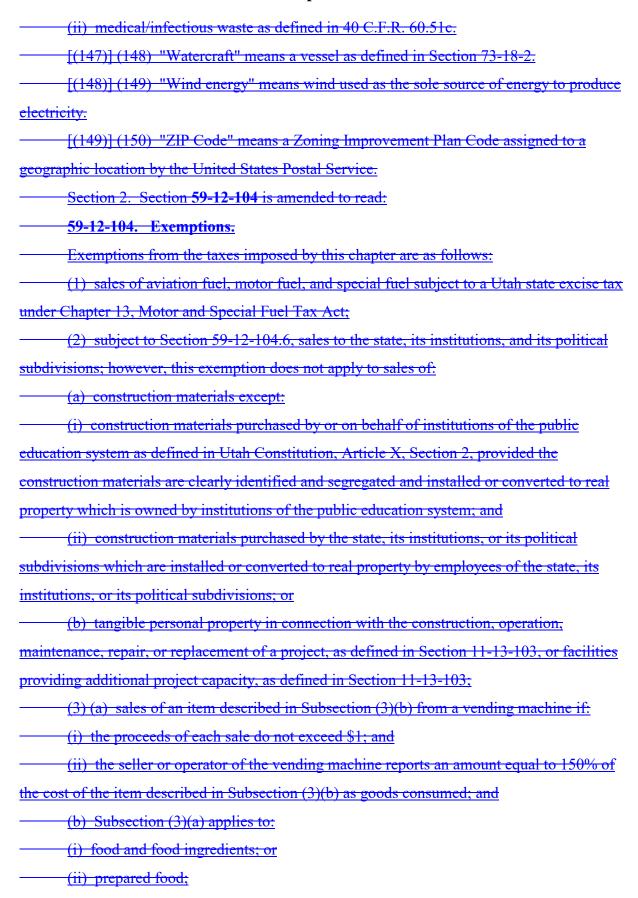




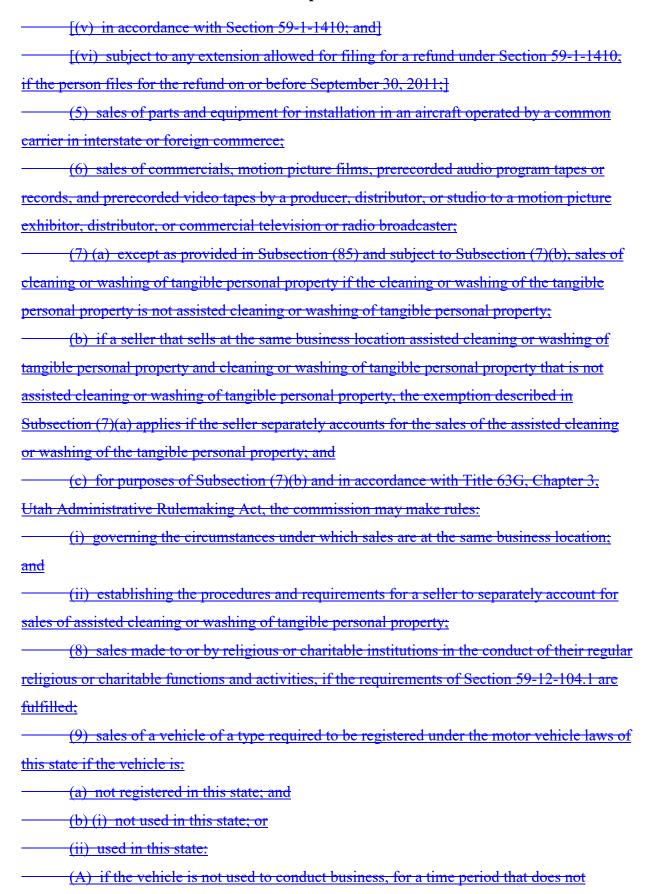








| (4) (a) sales of the following to a commercial airline carrier for in-flight consumption: |
|--|
| (i) alcoholic beverages; |
| (ii) food and food ingredients; or |
| (iii) prepared food; |
| (b) sales of tangible personal property or a product transferred electronically: |
| (i) to a passenger; |
| (ii) by a commercial airline carrier; and |
| (iii) during a flight for in-flight consumption or in-flight use by the passenger; or |
| (c) services related to Subsection (4)(a) or (b); |
| [(5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts |
| and equipment:] |
| [(A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002 |
| North American Industry Classification System of the federal Executive Office of the |
| President, Office of Management and Budget; and] |
| <u>[(II) for:]</u> |
| [(Aa) installation in an aircraft, including services relating to the installation of parts or |
| equipment in the aircraft;] |
| [(Bb) renovation of an aircraft; or] |
| [(Cc) repair of an aircraft; or] |
| [(B) for installation in an aircraft operated by a common carrier in interstate or foreign |
| commerce; or] |
| [(ii) beginning on October 1, 2008, sales of parts and equipment for installation in an |
| aircraft operated by a common carrier in interstate or foreign commerce; and] |
| [(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, |
| a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a |
| refund:] |
| [(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;] |
| [(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;] |
| [(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for |
| the sale prior to filing for the refund;] |
| [(iv) for sales and use taxes paid under this chapter on the sale:] |



| exceed the longer of: |
|--|
| (I) 30 days in any calendar year; or |
| (II) the time period necessary to transport the vehicle to the borders of this state; or |
| (B) if the vehicle is used to conduct business, for the time period necessary to transport |
| the vehicle to the borders of this state; |
| (10) (a) amounts paid for an item described in Subsection (10)(b) if: |
| (i) the item is intended for human use; and |
| (ii) (A) a prescription was issued for the item; or |
| (B) the item was purchased by a hospital or other medical facility; and |
| (b) (i) Subsection (10)(a) applies to: |
| (A) a drug; |
| (B) a syringe; or |
| (C) a stoma supply; and |
| (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the |
| commission may by rule define the terms: |
| (A) "syringe"; or |
| (B) "stoma supply"; |
| (11) purchases or leases exempt under Section 19-12-201; |
| (12) (a) sales of an item described in Subsection (12)(c) served by: |
| (i) the following if the item described in Subsection (12)(c) is not available to the |
| general public: |
| (A) a church; or |
| (B) a charitable institution; or |
| (ii) an institution of higher education if: |
| (A) the item described in Subsection (12)(c) is not available to the general public; or |
| (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan |
| offered by the institution of higher education; or |
| (b) sales of an item described in Subsection (12)(c) provided for a patient by: |
| (i) a medical facility; or |
| (ii) a nursing facility; and |
| (c) Subsections (12)(a) and (b) apply to: |

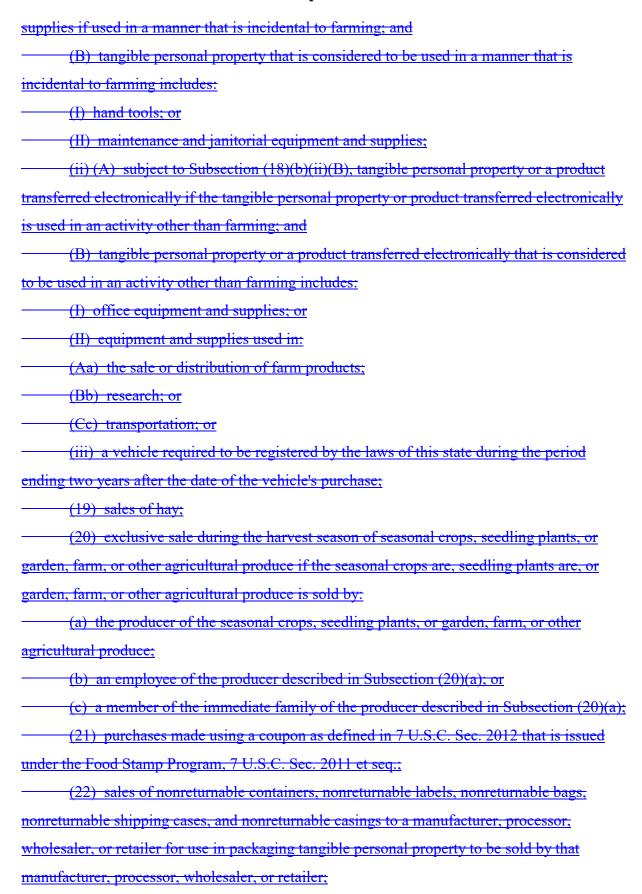
| (i) food and food ingredients; |
|--|
| (ii) prepared food; or |
| (iii) alcoholic beverages; |
| (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property |
| or a product transferred electronically by a person: |
| (i) regardless of the number of transactions involving the sale of that tangible personal |
| property or product transferred electronically by that person; and |
| (ii) not regularly engaged in the business of selling that type of tangible personal |
| property or product transferred electronically; |
| (b) this Subsection (13) does not apply if: |
| (i) the sale is one of a series of sales of a character to indicate that the person is |
| regularly engaged in the business of selling that type of tangible personal property or product |
| transferred electronically; |
| (ii) the person holds that person out as regularly engaged in the business of selling that |
| type of tangible personal property or product transferred electronically; |
| (iii) the person sells an item of tangible personal property or product transferred |
| electronically that the person purchased as a sale that is exempt under Subsection (25); or |
| (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of |
| this state in which case the tax is based upon: |
| (A) the bill of sale or other written evidence of value of the vehicle or vessel being |
| sold; or |
| (B) in the absence of a bill of sale or other written evidence of value, the fair market |
| value of the vehicle or vessel being sold at the time of the sale as determined by the |
| commission; and |
| (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the |
| commission shall make rules establishing the circumstances under which: |
| (i) a person is regularly engaged in the business of selling a type of tangible personal |
| property or product transferred electronically; |
| (ii) a sale of tangible personal property or a product transferred electronically is one of |
| a series of sales of a character to indicate that a person is regularly engaged in the business of |
| selling that type of tangible personal property or product transferred electronically; or |

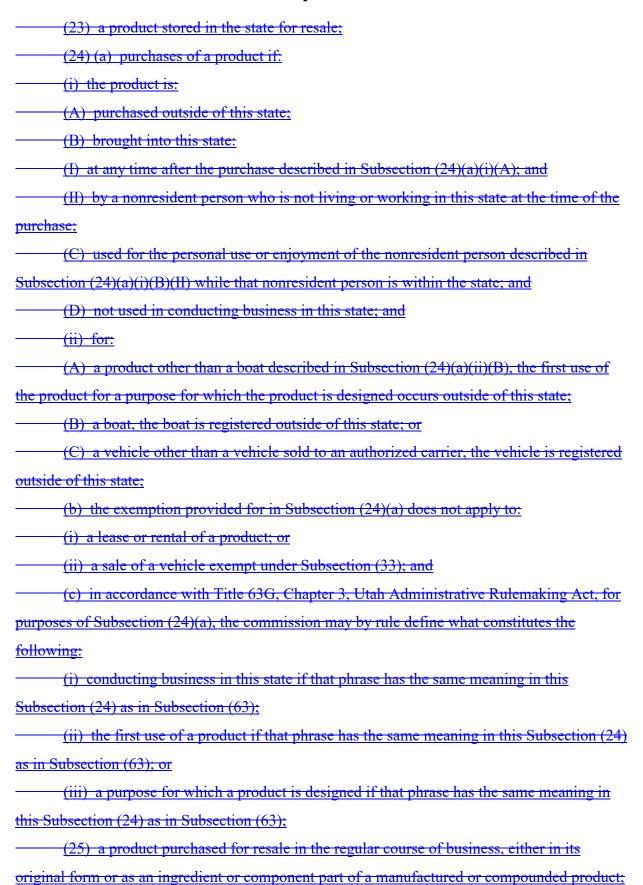
(iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically; (14) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by: (a) a manufacturing facility that: (i) is located in the state; and (ii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials: (A) in the manufacturing process to manufacture an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or (B) for a scrap recycler, to process an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; (b) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that: (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; (ii) is located in the state; and (iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in: (A) the production process to produce an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; (B) research and development, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

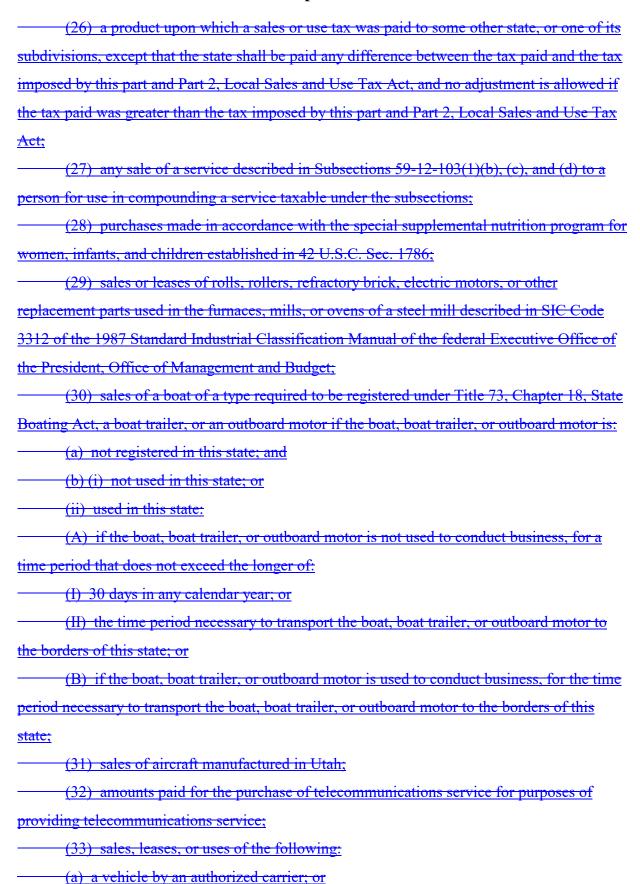
(C) transporting, storing, or managing tailings, overburden, or similar waste materials

| produced from mining; |
|--|
| (D) developing or maintaining a road, tunnel, excavation, or similar feature used in |
| mining; or |
| (E) preventing, controlling, or reducing dust or other pollutants from mining; or |
| (c) an establishment, as the commission defines that term in accordance with Title 63G, |
| Chapter 3, Utah Administrative Rulemaking Act, that: |
| (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North |
| American Industry Classification System of the federal Executive Office of the President, |
| Office of Management and Budget; |
| (ii) is located in the state; and |
| (iii) uses or consumes the machinery, equipment, normal operating repair or |
| replacement parts, or materials in the operation of the web search portal; |
| (15) (a) sales of the following if the requirements of Subsection (15)(b) are met: |
| (i) tooling; |
| (ii) special tooling; |
| (iii) support equipment; |
| (iv) special test equipment; or |
| (v) parts used in the repairs or renovations of tooling or equipment described in |
| Subsections (15)(a)(i) through (iv); and |
| (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if: |
| (i) the tooling, equipment, or parts are used or consumed exclusively in the |
| performance of any aerospace or electronics industry contract with the United States |
| government or any subcontract under that contract; and |
| (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i). |
| title to the tooling, equipment, or parts is vested in the United States government as evidenced |
| by: |
| (A) a government identification tag placed on the tooling, equipment, or parts; or |
| (B) listing on a government-approved property record if placing a government |
| identification tag on the tooling, equipment, or parts is impractical; |
| (16) sales of newspapers or newspaper subscriptions; |
| (17) (a) except as provided in Subsection (17)(b), tangible personal property or a |

product transferred electronically traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon: (i) the bill of sale or other written evidence of value of the vehicle being sold and the vehicle being traded in; or (ii) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle being sold and the vehicle being traded in, as determined by the commission; and (b) Subsection (17)(a) does not apply to the following items of tangible personal property or products transferred electronically traded in as full or part payment of the purchase price: (i) money; (ii) electricity; (iii) water; (iv) gas; or (v) steam; (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property or a product transferred electronically used or consumed primarily and directly in farming operations, regardless of whether the tangible personal property or product transferred electronically: (A) becomes part of real estate; or (B) is installed by a: (I) farmer; (II) contractor; or (III) subcontractor; or (ii) sales of parts used in the repairs or renovations of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is exempt under Subsection (18)(a)(i); and (b) amounts paid or charged for the following are subject to the taxes imposed by this chapter: (i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or





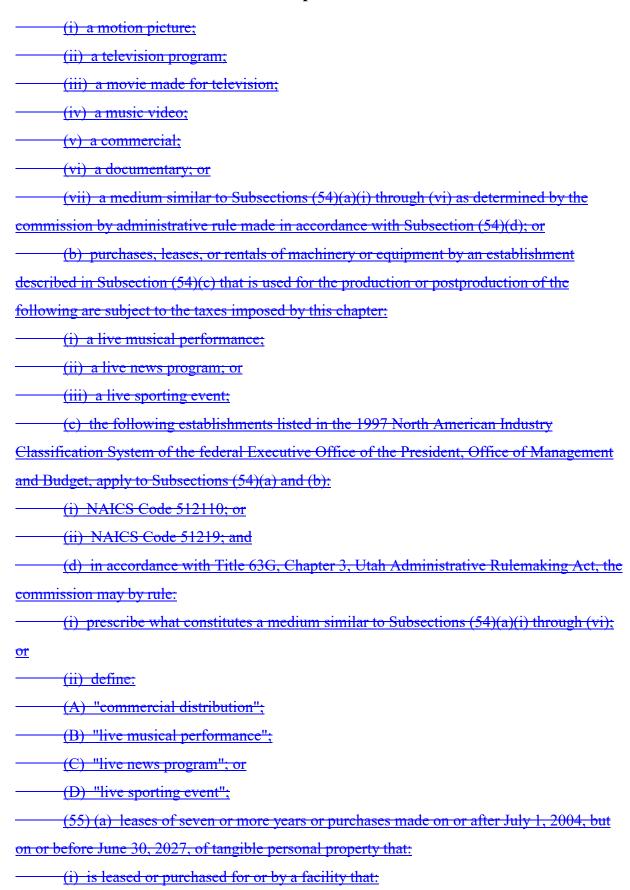


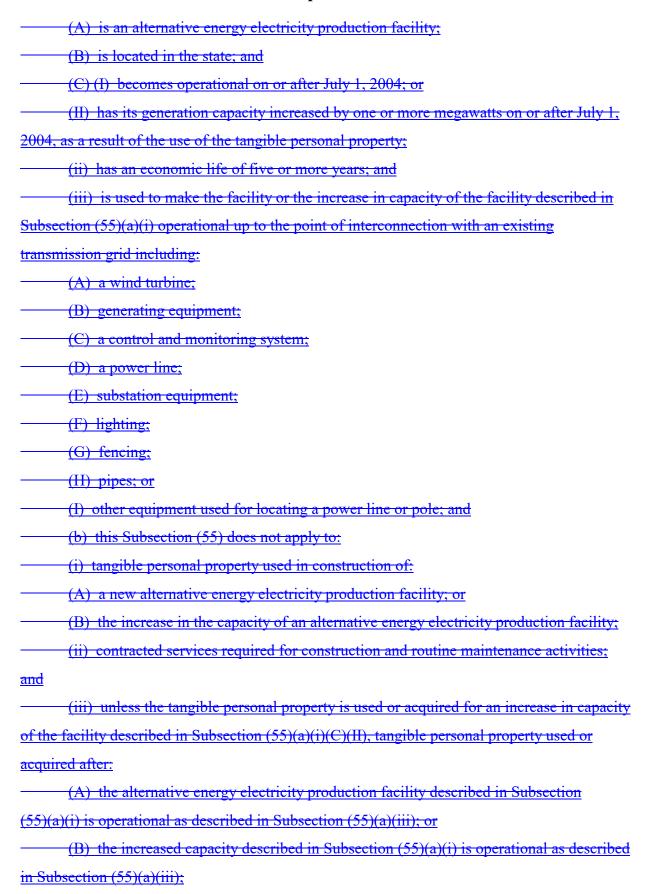
| (b) tangible personal property that is installed on a vehicle: |
|---|
| (i) sold or leased to or used by an authorized carrier; and |
| (ii) before the vehicle is placed in service for the first time; |
| (34) (a) 45% of the sales price of any new manufactured home; and |
| (b) 100% of the sales price of any used manufactured home; |
| (35) sales relating to schools and fundraising sales; |
| (36) sales or rentals of durable medical equipment if: |
| (a) a person presents a prescription for the durable medical equipment; and |
| (b) the durable medical equipment is used for home use only; |
| (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in |
| Section 72-11-102; and |
| (b) the commission shall by rule determine the method for calculating sales exempt |
| under Subsection (37)(a) that are not separately metered and accounted for in utility billings; |
| (38) sales to a ski resort of: |
| (a) snowmaking equipment; |
| (b) ski slope grooming equipment; |
| (c) passenger ropeways as defined in Section 72-11-102; or |
| (d) parts used in the repairs or renovations of equipment or passenger ropeways |
| described in Subsections (38)(a) through (c); |
| (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use; |
| (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for |
| amusement, entertainment, or recreation an unassisted amusement device as defined in Section |
| 59-12-102; |
| (b) if a seller that sells or rents at the same business location the right to use or operate |
| for amusement, entertainment, or recreation one or more unassisted amusement devices and |
| one or more assisted amusement devices, the exemption described in Subsection (40)(a) |
| applies if the seller separately accounts for the sales or rentals of the right to use or operate for |
| amusement, entertainment, or recreation for the assisted amusement devices; and |
| (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, |
| <u>Utah Administrative Rulemaking Act, the commission may make rules:</u> |
| (i) governing the circumstances under which sales are at the same business location; |

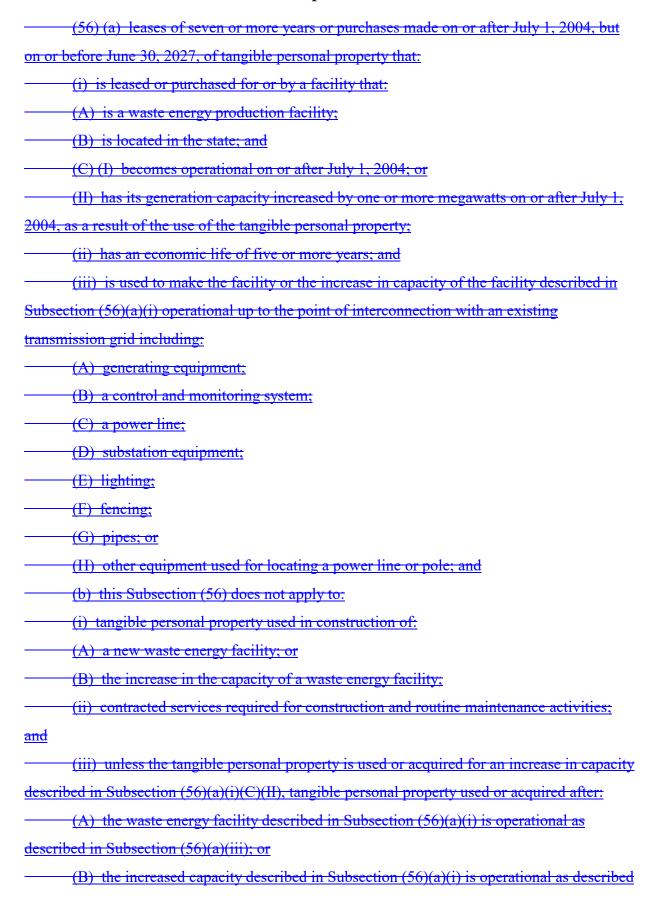
| and |
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| (ii) establishing the procedures and requirements for a seller to separately account for |
| the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for |
| assisted amusement devices; |
| (41) (a) sales of photocopies by: |
| (i) a governmental entity; or |
| (ii) an entity within the state system of public education, including: |
| (A) a school; or |
| (B) the State Board of Education; or |
| (b) sales of publications by a governmental entity; |
| (42) amounts paid for admission to an athletic event at an institution of higher |
| education that is subject to the provisions of Title IX of the Education Amendments of 1972, |
| 20 U.S.C. Sec. 1681 et seq.; |
| (43) (a) sales made to or by: |
| (i) an area agency on aging; or |
| (ii) a senior citizen center owned by a county, city, or town; or |
| (b) sales made by a senior citizen center that contracts with an area agency on aging; |
| (44) sales or leases of semiconductor fabricating, processing, research, or developmen |
| materials regardless of whether the semiconductor fabricating, processing, research, or |
| development materials: |
| (a) actually come into contact with a semiconductor; or |
| (b) ultimately become incorporated into real property; |
| (45) an amount paid by or charged to a purchaser for accommodations and services |
| described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section |
| 59-12-104.2; |
| (46) [beginning on September 1, 2001,]the lease or use of a vehicle issued a temporar |
| sports event registration certificate in accordance with Section 41-3-306 for the event period |
| specified on the temporary sports event registration certificate; |
| (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff |
| adopted by the Public Service Commission only for purchase of electricity produced from a |
| new alternative energy source built after January 1, 2016, as designated in the tariff by the |

Public Service Commission; and

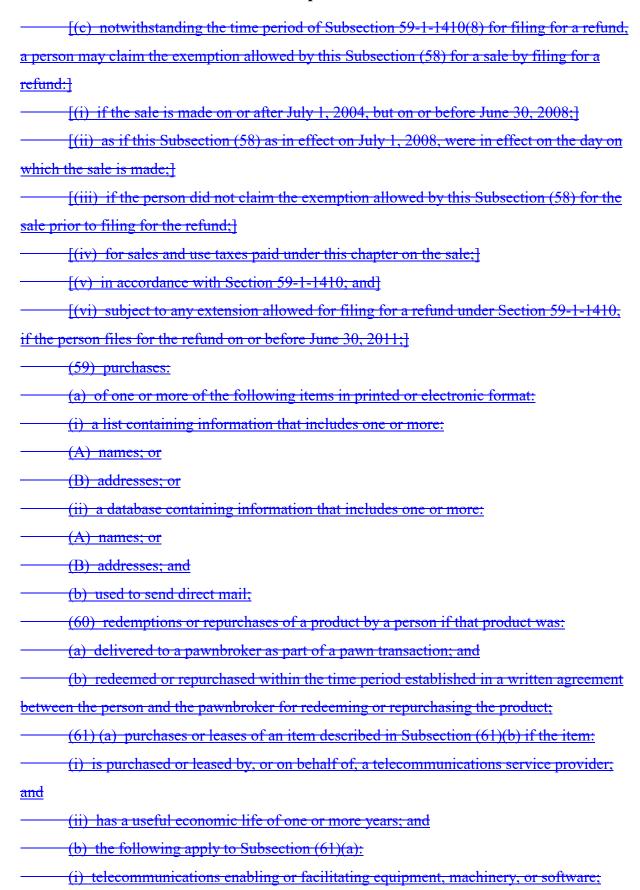
| (b) for a residential use customer only, the exemption under Subsection (47)(a) applies |
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| only to the portion of the tariff rate a customer pays under the tariff described in Subsection |
| (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the |
| customer would have paid absent the tariff; |
| (48) sales or rentals of mobility enhancing equipment if a person presents a |
| prescription for the mobility enhancing equipment; |
| (49) sales of water in a: |
| (a) pipe; |
| (b) conduit; |
| (c) ditch; or |
| (d) reservoir; |
| (50) sales of currency or coins that constitute legal tender of a state, the United States, |
| or a foreign nation; |
| (51) (a) sales of an item described in Subsection (51)(b) if the item: |
| (i) does not constitute legal tender of a state, the United States, or a foreign nation; and |
| (ii) has a gold, silver, or platinum content of 50% or more; and |
| (b) Subsection (51)(a) applies to a gold, silver, or platinum: |
| (i) ingot; |
| (ii) bar; |
| (iii) medallion; or |
| (iv) decorative coin; |
| (52) amounts paid on a sale-leaseback transaction; |
| (53) sales of a prosthetic device: |
| (a) for use on or in a human; and |
| (b) (i) for which a prescription is required; or |
| (ii) if the prosthetic device is purchased by a hospital or other medical facility; |
| (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of |
| machinery or equipment by an establishment described in Subsection (54)(c) if the machinery |
| or equipment is primarily used in the production or postproduction of the following media for |
| commercial distribution: |

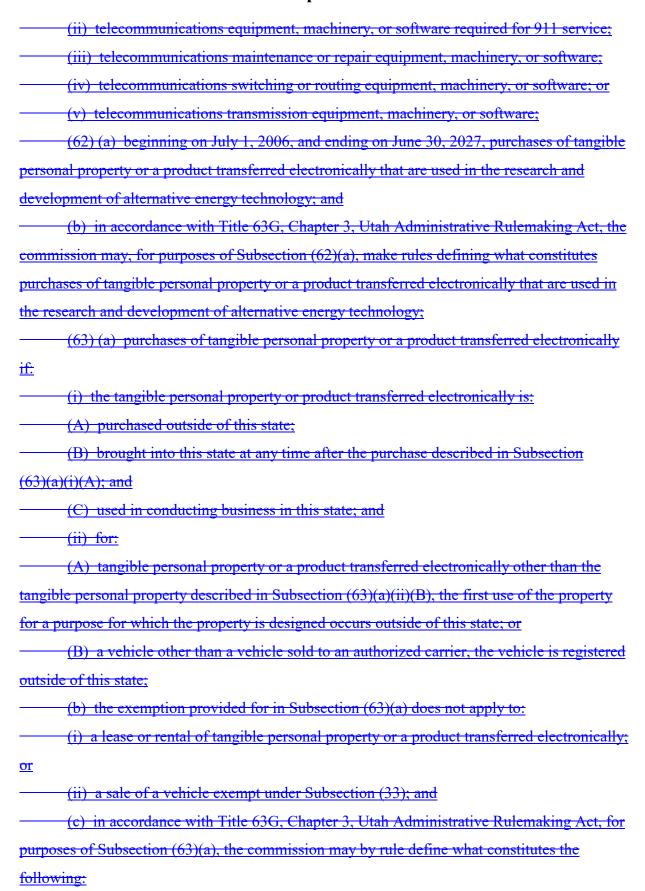






| in Subsection (56)(a)(iii): |
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| (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on |
| or before June 30, 2027, of tangible personal property that: |
| (i) is leased or purchased for or by a facility that: |
| (A) is located in the state; |
| (B) produces fuel from alternative energy, including: |
| (I) methanol; or |
| (II) ethanol; and |
| (C) (I) becomes operational on or after July 1, 2004; or |
| (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, a |
| a result of the installation of the tangible personal property; |
| (ii) has an economic life of five or more years; and |
| (iii) is installed on the facility described in Subsection (57)(a)(i); |
| (b) this Subsection (57) does not apply to: |
| (i) tangible personal property used in construction of: |
| (A) a new facility described in Subsection (57)(a)(i); or |
| (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or |
| (ii) contracted services required for construction and routine maintenance activities; |
| and |
| (iii) unless the tangible personal property is used or acquired for an increase in capacit |
| described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after: |
| (A) the facility described in Subsection (57)(a)(i) is operational; or |
| (B) the increased capacity described in Subsection (57)(a)(i) is operational; |
| (58) (a) subject to Subsection (58)(b) [or (c)], sales of tangible personal property or a |
| product transferred electronically to a person within this state if that tangible personal property |
| or product transferred electronically is subsequently shipped outside the state and incorporated |
| pursuant to contract into and becomes a part of real property located outside of this state; and |
| (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other |
| state or political entity to which the tangible personal property is shipped imposes a sales, use, |
| gross receipts, or other similar transaction excise tax on the transaction against which the other |
| state or political entity allows a credit for sales and use taxes imposed by this chapter: [and] |

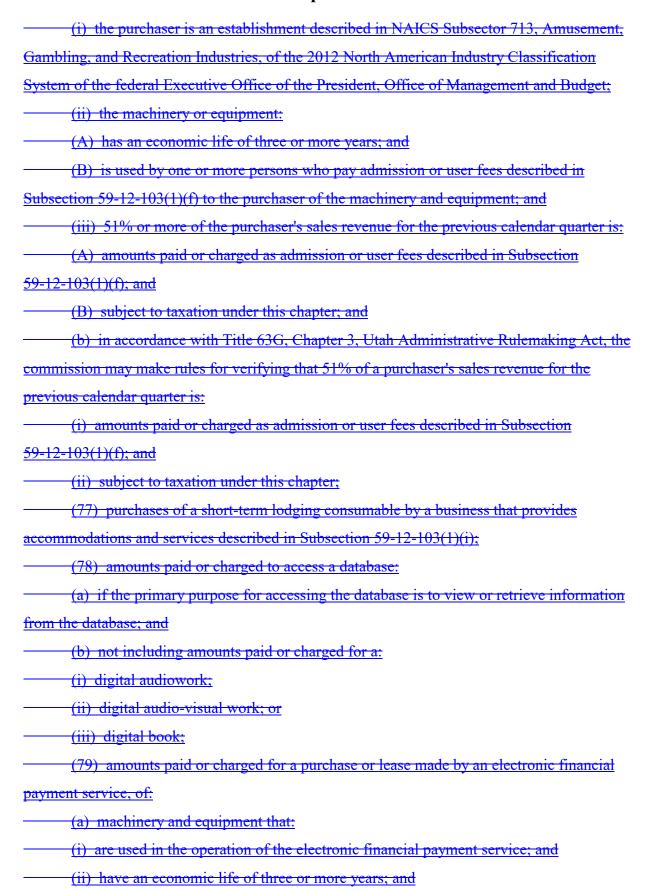




| (i) conducting business in this state if that phrase has the same meaning in this |
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| Subsection (63) as in Subsection (24); |
| (ii) the first use of tangible personal property or a product transferred electronically if |
| that phrase has the same meaning in this Subsection (63) as in Subsection (24); or |
| (iii) a purpose for which tangible personal property or a product transferred |
| electronically is designed if that phrase has the same meaning in this Subsection (63) as in |
| Subsection (24); |
| (64) sales of disposable home medical equipment or supplies if: |
| (a) a person presents a prescription for the disposable home medical equipment or |
| supplies; |
| (b) the disposable home medical equipment or supplies are used exclusively by the |
| person to whom the prescription described in Subsection (64)(a) is issued; and |
| (c) the disposable home medical equipment and supplies are listed as eligible for |
| payment under: |
| (i) Title XVIII, federal Social Security Act; or |
| (ii) the state plan for medical assistance under Title XIX, federal Social Security Act; |
| <u>(65) sales:</u> |
| (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit |
| District Act; or |
| (b) of tangible personal property to a subcontractor of a public transit district, if the |
| tangible personal property is: |
| (i) clearly identified; and |
| (ii) installed or converted to real property owned by the public transit district; |
| (66) sales of construction materials: |
| (a) purchased on or after July 1, 2010; |
| (b) purchased by, on behalf of, or for the benefit of an international airport: |
| (i) located within a county of the first class; and |
| (ii) that has a United States customs office on its premises; and |
| (c) if the construction materials are: |
| (i) clearly identified; |
| (ii) segregated; and |

| (iii) installed or converted to real property: |
|--|
| (A) owned or operated by the international airport described in Subsection (66)(b); and |
| (B) located at the international airport described in Subsection (66)(b); |
| (67) sales of construction materials: |
| (a) purchased on or after July 1, 2008; |
| (b) purchased by, on behalf of, or for the benefit of a new airport: |
| (i) located within a county of the second class; and |
| (ii) that is owned or operated by a city in which an airline as defined in Section |
| 59-2-102 is headquartered; and |
| (c) if the construction materials are: |
| (i) clearly identified; |
| (ii) segregated; and |
| (iii) installed or converted to real property: |
| (A) owned or operated by the new airport described in Subsection (67)(b); |
| (B) located at the new airport described in Subsection (67)(b); and |
| (C) as part of the construction of the new airport described in Subsection (67)(b); |
| (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine; |
| (69) purchases and sales described in Section 63H-4-111; |
| (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and |
| overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of |
| a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration |
| lists a state or country other than this state as the location of registry of the fixed wing turbine |
| powered aircraft; or |
| (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul |
| provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of |
| a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration |
| lists a state or country other than this state as the location of registry of the fixed wing turbine |
| powered aircraft; |
| (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course: |
| (a) to a person admitted to an institution of higher education; and |
| (b) by a seller, other than a bookstore owned by an institution of higher education, if |

51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course; (72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services; (73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are: (a) clearly identified; (b) segregated; and (c) installed or converted to real property; (74) amounts paid or charged for: (a) a purchase or lease of machinery and equipment that: (i) are used in performing qualified research: (A) as defined in Section 41(d), Internal Revenue Code; and (B) in the state; and (ii) have an economic life of three or more years; and (b) normal operating repair or replacement parts: (i) for the machinery and equipment described in Subsection (74)(a); and (ii) that have an economic life of three or more years; (75) a sale or lease of tangible personal property used in the preparation of prepared food if: (a) for a sale: (i) the ownership of the seller and the ownership of the purchaser are identical; and (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or (b) for a lease: (i) the ownership of the lessor and the ownership of the lessee are identical; and (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease; (76) (a) purchases of machinery or equipment if:



(b) normal operating repair or replacement parts that: (i) are used in the operation of the electronic financial payment service; and (ii) have an economic life of three or more years; (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102; (81) amounts paid or charged for a purchase or lease of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically: (a) is stored, used, or consumed in the state; and (b) is temporarily brought into the state from another state: (i) during a disaster period as defined in Section 53-2a-1202; (ii) by an out-of-state business as defined in Section 53-2a-1202; (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202; (82) sales of goods and services at a morale, welfare, and recreation facility, as defined in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and Recreation Program; (83) amounts paid or charged for a purchase or lease of molten magnesium; (84) amounts paid or charged for a purchase or lease made by a qualifying enterprise data center of machinery, equipment, or normal operating repair or replacement parts, if the machinery, equipment, or normal operating repair or replacement parts: (a) are used in the operation of the establishment; and (b) have an economic life of one or more years; (85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a vehicle that includes cleaning or washing of the interior of the vehicle; (86) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used or consumed: (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined in Section 63M-4-701 located in the state; (b) if the machinery, equipment, normal operating repair or replacement parts,

catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

(i) the production process to produce gasoline or diesel fuel, or at which blendstock is added to gasoline or diesel fuel; (ii) research and development; (iii) transporting, storing, or managing raw materials, work in process, finished products, and waste materials produced from refining gasoline or diesel fuel, or adding blendstock to gasoline or diesel fuel; (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in refining; or (v) preventing, controlling, or reducing pollutants from refining; and (c) beginning on July 1, 2021, if the person has obtained a form certified by the Office of Energy Development under Subsection 63M-4-702(2); (87) amounts paid to or charged by a proprietor for accommodations and services, as defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations tax imposed under Section 63H-1-205: (88) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that: (a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; (b) is located in this state; and (c) uses the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the establishment; [and] (89) amounts paid or charged for an item exempt under Section 59-12-104.10[.]; and (90) amounts paid or charged for a purchase or lease of an electric energy storage asset for residential use, commercial use, or industrial use. Section 3. Effective date. This bill takes effect on July 1, 2020. \(\frac{1}{4}\)(a)(i), the office shall provide the taxpayer a written statement acknowledging receipt. (b) If the office determines that the taxpayer qualifies for the tax credit, the office shall:

- (i) determine the amount of the tax credit the taxpayer is allowed under this section; and
 - (ii) provide the taxpayer with a written tax credit certificate that:
 - (A) states that the taxpayer qualifies for the tax credit; and
 - (B) shows the amount of the tax credit for which the taxpayer qualifies.
- (c) At least annually, the office shall submit to the commission a list of each qualified taxpayer to whom the office issued a tax credit certificate and the amount of the tax credit.
- (5) (a) The tax credit described in this section is allowed only for the taxable year in which the qualified purchase occurs.
 - (b) A qualified taxpayer may not:
 - (i) assign a tax credit or tax credit certificate under this section to another person; or
 - (ii) claim more than one tax credit under this section for each qualified purchase.
- (6) If the qualified taxpayer receives a tax credit certificate under this section that allows a tax credit in an amount that exceeds the qualified taxpayer's tax liability under this chapter for a taxable year, the qualified taxpayer may carry forward the amount of the tax credit that exceeds the tax liability for a period that does not exceed the next five taxable years.

Section 4. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2020.